MARITIME PROMOTION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 1088 (MERCHANT MARINE EQUITY ACT); H.R. 2462 ("MAST"—MARITIME AUXILIARY SEALIFT AND TRAINING); H.R. 3297 (VESSEL OPERATING-DIFFERENTIAL SUBSIDY); H.R. 3537 (MARITIME PROMOTION); AND H.R. 3808 (AMENDMENTS TO THE MERCHANT MARINE ACT, 1936)

MARCH 17, 30, AND APRIL 13, 1988

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MARITIME PROMOTION

THURSDAY, MARCH 17, 1988

House of Representatives,
Subcommittee on Merchant Marine,
Committee on Merchant Marine and Fisheries,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:04 a.m., in room 1334, Longworth House Office Building, Hon. Walter B. Jones (Chairman of the Subcommittee) presiding.

Present: Representatives Jones, Anderson, Hubbard, Tallon, Pickett, Lent, Shumway, Bateman, Saxton, Miller, Bentley, Coble, and Davis; Representative Hughes, Member, Committee on Merchant Marine and Fisheries.

Subcommittee staff present: Cynthia M. Wilkinson, chief counsel; Gregory L. Lambert, counsel; Melanie M. Barber, counsel; Kip Robinson, minority counsel; and Ann M. Mueller, Subcommittee clerk.

Committee staff present: Edmund B. Welch, chief counsel; Gerry Seifert, general counsel for maritime policy; John Cullather, staff assistant; Duncan Smith, chief minority counsel; Rusty Johnston, minority counsel; and Gwen Lockhart, chief minority clerk.

STATEMENT OF HON. WALTER B. JONES, A U.S. REPRESENTATIVE FROM NORTH CAROLINA AND CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE

Mr. Jones. Good morning. Today, the Subcommittee on Merchant Marine meets to begin its examination of legislation aimed at assisting the privately-owned United States-flag fleet. The bills before us raise several basic questions. First, under what conditions should we permit the foreign construction of subsidized vessels? Second, what other reforms are necessary to assure U.S.-flag vessels can compete on the world market? And, last, what effects would these reforms have on other segments of the maritime enterprise?

These issues present extremely difficult policy choices. For many years, the United States has neglected its shipbuilding base. Representatives of this industry argue that the bills we are considering will harm our Nation's shipyards by permitting overseas construction. On the other hand, our U.S.-flag ocean carriers argue they need to replace vessels and cannot afford higher U.S. construction costs. Clearly, we must address the concerns of both these important industries.

The second question raises equally complex issues. If each operator were writing on a blank slate, each would develop a different program. What seems genuinely fair to one operator would appear manifestly unjust to another. The goal of this series of hearings is to develop an approach that will enable our operators to compete against their foreign competitors. At the same time, we will not give any U.S.-flag carrier an unfair advantage over other U.S.-flag operators. Our purpose is to see that each U.S. carrier is given the necessary tools to ensure a long-term, profitable operation. Overriding all other purposes is the need to fashion a program that will assure the United States a merchant marine capable of meeting our defense, as well as commercial, needs now and in the future.

Of course, all of this must be accomplished within the budgetary realities that now govern each policy decision.

I have introduced legislation, H.R. 2462, that would do much to benefit our merchant marine. It is an innovative way to support our merchant marine and good legislation that should be enacted. But it is not the only bill that could do the job, and I will not be averse to other solutions. In this regard, I am encouraged by the statement of Transportation Secretary Burnley when he appeared before us on March the 3rd when he set the highest priority for the enactment of this year's ODS reform legislation. (See Printed Hearings 100-50.)

Today is just one step in the process. After the completion of our hearings, there will still be much to do. The bills will have to be reexamined. Compromises will have to be made. The Administration will have to be convinced to spend the funds necessary to support a healthy and viable U.S.-flag fleet. Despite all these obstacles, I am confident that—with the cooperation of the various interested parties—we will develop and send to the Senate meaningful reform legislation.

Mr. Lent.

STATEMENT OF HON. NORMAN F. LENT, A U.S. REPRESENTATIVE FROM NEW YORK AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON MERCHANT MARINE

Mr. LENT. Thank you, Mr. Chairman.

I am pleased that we are finally getting to the point of holding hearings on the numerous bills to reassess and reform the Government's program for promoting the shipping industry. Because this issue is so controversial and there are so many different opinions as to the proper course of action, we must be prepared for a long period of discussion.

The Merchant Marine and Fisheries Committee has been wrestling with this problem for several years, along with the various liner companies involved, and the Administration. I am pleased to note that the Administration has funding for a revised ODS program in the Fiscal Year 1989 budget request. That, coupled with the fact that we now have the Administration's legislative proposal, which I introduced by request, is a positive sign that we may have some room for negotiations on this issue.

In order for us to be successful in this ODS endeavor for the vessel operators, it may be necessary for this Committee to address the equally difficult problem of how to protect and support the American shipbuilding industry. Both of these segments of our maritime industry are in deep trouble. From the standpoint of our national economic well-being—and national defense—the Government can no longer assume that everything is going to be O.K. With the recommendations of the Commission on Merchant Marine and Defense now before the President and the Congress, all the affected parties will have to set aside various parochial differences and come to the table with some significant compromises.

I want to welcome our distinguished panel assembled here this morning. I look forward to hearing all of the witnesses during the course of these hearings and trust that we will receive positive recommendations on ways to solve the problems confronting the American maritime industry.

Mr. Chairman, I hope these hearings will prove to be fruitful as we try to sort through the various legislative proposals. Thank you, very much.

Mr. JONES. Thank you, Mr. Lent.

At this point, I ask unanimous consent that the following be included in the hearing record. It is a statement by my Colleague, the Honorable Mario Biaggi.

Is there objection? Without objection, it is so ordered.

[Mr. Biaggi's prepared statement follows:]

STATEMENT BY HON. MARIO BIAGGI, A U.S. REPRESENTATIVE FROM NEW YORK AND VICE CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Congress is often condemned for its lack of determination and its inability to quickly respond to problems. However, Congressional efforts to reform the ODS program have been stymied by the failure of the interested parties to agree on the problems that must be addressed, much less a legislative solution.

Despite the fact that we have spent almost six years examining the problems of the liner industry, legislation has still not been enacted. Now, the question is whether Congress is responsible for failing to address the needs of the American merchant marine. The answer is a resoundng NO.

Let's first examine the Congressional response to the findings of the President's Commission on Merchant Marine and Defense.

The Commission has made a series of recommendations. The first is a call for the President to declare a national maritime policy; the President has chosen to do nothing. The Commission's second recommendation is addressed to both the Congress and the Administration and calls for the completion of "ongoing efforts to develop and enact into law a meaningful Operating Differential Subsidy (ODS) reform package. The package should ensure more flexible and competitive United States flag carrier service, remain within reasonable budgetary constraints, and function to sustain and expand the contributions of the commercial merchant marine to the strategic sealift capability of the United States. The package should allow authority for limited and controlled worldwide procurement of ships in parallel with implementation of new domestic commercial shipbuilding programs."

The Commisson, in effect, urged Congress to get busy and pass legislation to revitalize our liner fleet—and to act to reverse the critical decline of our shipyards within the limit of the budget. This hearing indicates Congress has accepted the Commission's challenge. Now, the $64,000 question is if the industry will do its part. In years past, legislation was stalled by opposition from various segments of the maritime industry. The industry must cease its internal bickering. We want both our Nation's vessel operators and shipyards to be strong and able to meet and beat our foreign competition. We can only accomplish this goal with the industry's help.

I have a two-foot-high stack of bills concerning ODS reform in my office. In the 98th Congress, I introduced H.R. 3156 to assist liner operators by providing build-foreign authority. In the 99th Congress, I introduced H.R. 4024 to reform the operating-differential subsidy system. I introduced H.R. 1088 in this Congress, and I strongly believe it is the best approach to solving the problems of U.S.-flag liner operators. However, at this juncture, my pride in H.R. 1088 is beside the point. I could support enactment of any of the bills before us today—as long as the important goals outlined by the Commission are met. Congress must pass meaningful reform legislation that will help assure the survival of both our U.S.-flag operators and our shipyards.

The hearings on ODS reform could end up as just another book of testimony on the shelf, or they can be the genesis of a healthy and strong merchant marine. The decision rests mainly with the industry. If it pulls together, there is hope—but a lack of unity will assure failure.

In conclusion, I would like to remind you that, since our last hearing on this issue, the largest U.S.-flag operator has gone into bankruptcy. Time is clearly not on our side. Saving the industry will require decisive action and the cooperation of all interested parties.

Mr. JONES. The Chair would like to announce that we are faced with the constraints of time. But, if anybody runs a little over, I will not cut off microphones.

Mr. Pickett.

Mr. PICKETT. No statement.

Mr. JONES. Mr. Davis.

STATEMENT OF HON. ROBERT W. DAVIS, A U.S. REPRESENTATIVE FROM MICHIGAN AND RANKING MINORITY MEMBER, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. DAVIS. Thank you, Mr. Chairman. I have a statement that I would like to read, and I am going to have to leave because I have a Subcommittee meeting on the armed services and we are getting ready to markup. So I have to leave, and this is a very important subject matter to me. But let me make my statement before I leave.

Mr. Chairman, as you noted, we are here today to consider five separate bills which, in various different ways, each seek to strengthen our merchant marine through reform of the subsidy program. I am pleased to have Senator Denton here to lead off the Committee's consideration of these reform measures. As Chairman of the Commission on Merchant Marine and Defense, you, Senator, more than anyone else, know the problems facing this industry. We in this Committee need and welcome your suggestions. Senator, I trust you are going to give us today—and I am sure you will—your very frank and candid assessment.

I also look forward to the testimony of representatives of the several liner companies. While I appreciate that differences exist between each of you, I also recognize these are legitimate and sincere differences, but I urge you to resolve these differences as quickly as possible. We have very few legislative days left in this session.

So what I'm asking from those who will testify today and those who will be called upon to present their views in later hearings, is to spend the precious little time that we have remaining, to work out and forge a consensus and to put aside some of your individual differences.

I recognize that the liner companies may have interests different from the shipbuilders; that maritime labor may have concerns not shared by the liner companies; that the Administration possibly may have views not shared by anybody.

I also recognize that the U.S.-build requirement, which is a key element in the bill I introduced, H.R. 3297, is likewise a contentious issue but, I might add, a very important issue to a lot of people and a very important issue to me.

We all know that money is in short supply and certainly we are going to have to spend it very wisely.

However, with all these constraints and all the differences, I believe very strongly that legislation is still possible this session. We in this Committee stand ready to help forge the consensus which is so desperately needed. And I would hope very much that we don't let this opportunity go by us and we don't let this time be wasted.

Thank you, Mr. Chairman.

Mr. JONES. Mr. Shumway.

STATEMENT OF HON. NORMAN D. SHUMWAY, A U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. SHUMWAY. Thank you, Mr. Chairman.

Just briefly, I would like to express publicly that I am delighted that you are holding these hearings. We have a problem that needs to be addressed, a problem that we have been faced with and have talked about now for some time. And I am sure Senator Denton will underscore the pressing nature of that problem. So I think it is very appropriate that we have these hearings and discuss the various bills that have been introduced to address the problem. Certainly, as time goes on, the problem becomes more acute and we don't really serve any useful solution by delaying any further.

At this moment, I am not sure what the right formula is. I am sure that, as a result of these hearings, we will all have a better grasp of what we should do. I am sure that some formula is needed. We simply can't ignore the merchant marine industry, the shipbuilding industry, and expect to still have a strong national defense capability and serve the purposes of international trade.

So, Mr. Chairman, I am delighted that you have convened these hearings. I look forward to the testimony of the witnesses. Thank you.

Mr. JONES. Mr. Anderson has a statement to place in the record at this point. If there is no objection, it is so ordered.

[Mr. Anderson's prepared statement follows:]

STATEMENT BY HON. GLENN M. ANDERSON, A U.S. REPRESENTATIVE FROM CALIFORNIA

Today, we are considering an issue of vital economic and national security importance; namely, the future of the Operating-Differential Subsidy [ODS] program.

The ODS issue is not simply an important one that needs to be addressed by this Subcommittee in a sensible and cooperative manner. It is also a difficult one, given the variety of players who are concerned over the future of ODS, including subsidized and unsubsidized foreign commerce operators, domestic operators, maritime labor and, of course, the shipbuilding industry.

I believe in the need for action on ODS and other maritime promotional programs. I hope that all of the players involved in the debate on ODS can work together in some manner to ensure that one industry is not sacrificed at the promotion and strengthening of another. Moreover, given the current budgetary era, this cooperation becomes increasingly important.

The focus of today's hearing, of course, will be upon the concerns some of our major U.S.-flag liner operators with respect to the Operating-Differential Subsidy program. Their remarks today, as well as those from the Commission on Merchant Marine and Defense, should help this committee move forward on ODS and other maritime promotional programs. We have to move forward; otherwise, the decline of our merchant marine will continue.

I look forward to today's testimony.

Mr. JONES. Mr. Tallon.

Mr. **Tallon**. Mr. Chairman, I would just like to congratulate you on the superb and outstanding job that you're doing, and commend you for holding these very important hearings.

Thank you.

Mr. **Jones**. Thank you.

Mr. Bateman.

Mr. **Bateman**. Mr. Chairman, I join in commending you. I am so pleased to see our distinguished panel of witnesses today, and so anxious to hear what they have to say that I am going to forego any further statement.

Mr. **Jones**. At this point the Chair recognizes the first panel, consisting of the Honorable Jeremiah A. Denton, Chairman of the Commission on Merchant Marine and Defense. He is accompanied by Admiral James L. Holloway, United States Navy (Retired), Commissioner, and Dr. Allan W. Cameron, the Executive Director.

Gentlemen, welcome aboard, and you are now recognized.

STATEMENT OF HON. JEREMIAH DENTON, CHAIRMAN, COMMISSION ON MERCHANT MARINE AND DEFENSE AND FORMER U.S. SENATOR FROM ALASKA, ACCOMPANIED BY ADM. JAMES L. HOLLOWAY, USN (RET.), COMMISSIONER; AND DR. ALLAN W. CAMERON, EXECUTIVE DIRECTOR

Senator **Denton**. Thank you, Mr. Chairman.

Needless to say, we are privileged to be able to testify this morning before this prestigious Subcommittee, one which has been so active and will be decisive, in determining the extent of the problems that so many of the opening statements have addressed, on whether they will be solved.

To save time, I will omit the first part of my prepared statement, which deals with our findings in our first report, the Findings of Fact and Conclusions, and go right into our Recommendations. Then we will be happy to respond to your questions.

The Commission on Merchant Marine and Defense was established by the Congress to investigate the Nation's sealift resources and, if they were found to be inadequate, to recommend a course of action to redress the situation. Last Fall, we released the results of our investigation in our "First Report of the Commission on Merchant Marine and Defense: Findings of Fact and Conclusions." There is a list in my opening statements of those. We think that they are worth the attention of the Members of this Subcommittee because they are an articulation of attention-getting facts that we hope will impel the Administration to start executing the first of our recommendations.

Our Second Report builds on the factual and philosophical conclusions of the first, proposing a carefully integrated set of recommendations designed to halt the decline of our vital maritime industries.

After examining current and projected maritime resources in comparison with our assets, the Commissioners reached the conclusion that a U.S.-flag merchant fleet should consist of at least 650 active and reserve merchant ships to meet the national military strategy's sealift needs, as compared to the 530 such ships available now and about 350 projected for the year 2000 if current trends persist. That 650-ship fleet could provide sufficient strategic sealift, and it would also provide the work necessary to keep the shipyard component of the maritime industries healthy and functioning.

We present seven interrelated recommendations for action by the Administration, the Congress, and the maritime industries themselves, briefly summarized as follows:

First, the President should proclaim a national maritime policy and should issue a National Security Decision Directive to ensure compliance by the departments and agencies of the Executive Branch. The policy should include seven points: We must have sealift for defense and economic security; we need sufficient ships, seamen, and shipyard facilities to meet the Nation's sealift needs; a balance between active and reserve ships is needed, with the emphasis placed on active ships; reserve sealift forces should be limited to non-economically viable ships with unique sealift features; we must be prepared to "go it alone" in places or situations where allies can't or won't help; the shipyard mobilization base must be maintained; new Federal funding must be justifiable on defense grounds and the cost borne by the Nation as a whole.

Those are the seven items composing the policy that we believe the President should promulgate, since the country is a little worn around the edges on what the policy is at this point.

Our second recommendation is that a meaningful Operating-Differential Subsidy reform package should be developed to help the United States merchant marine become more competitive on the world market. The reform should include some initial "procure foreign" provisions. Those provisions should be instituted in parallel with domestic ship construction programs, in order to restore the shipyard base needed to maintain the expanded merchant marine and for other purposes such as replacing Navy ships, mobilization, and that sort of thing.

Third, a "procure-and-charter" program should be instituted, using Government funds to construct militarily-useful ships at the rate of 12 per year for charter to private operators at rates that enable the ships to be operated competitively and profitably; to construct prototypes of emergency sealift designs; and to construct troopship/training ships to meet any specified requirements for such vessels. We also need to strengthen existing ship construction programs, such as title XI financing guarantees and the Capital Construction Fund (CCF) program. Foreign military sales of American-built warships should be encouraged, and the original intent of the 50 percent ad valorem tariff on overseas repairs to U.S.-flag merchant ships should be reinstated to strengthen the ship repair industry.

Fourth, the Government should step up efforts to ensure equitable competitive conditions for the United States merchant marine in the world market, and should enhance efforts at increasing U.S. foreign trade in general and the use of U.S.-flag ships in particular. That includes strengthening and expanding reservation for Government-owned and Government-impelled cargoes for American-flag ships.

Fifth, the existing cabotage laws should be supported, and ways to strengthen them should be examined; the prohibition of the export of domestic crude and refined petroleum should be continued.

Sixth, Department of Defense and Navy policies should be reexamined with a view to a more balanced approach to competition; in particular, procurement of ocean transportation should use a stable rate system based on established commercial shipping tariffs, and procurement of defense systems and equipment should be done in a manner that permits strengthening the United States industrial base.

Finally, to improve business efficiency in the maritime industries, cooperative Government-industry joint task forces should be established in the following categories: Maritime Efficiency, Shipyard Efficiency, and Intermodal Transportation Development. Additionally, maritime industry-related R&D should be increased and more effectively coordinated.

We believe, Mr. Chairman, that those recommendations should be considered as an integrated package. You are well aware of the differences in points in view and interests among the maritime industries. This package is our best shot at including those interests in an action plan that is logical and least expensive in the long run, as well as adequate to address the sealift problem.

We understand that today you are particularly concerned with pending Operating-Differential Subsidy reform legislation. We believe that a meaningful ODS reform package should ensure more flexible and competitive United States carrier service within acceptable budgetary constraints. The reform should also function as a catalyst to expand the contribution of the merchant marine to the strategic sealift capability of the Nation.

ODS reform is needed to allow U.S.-flag operators to replace outmoded ships in order to compete effectively for commercial cargo and, consequently, to increase the number of modern ships available for strategic sealift.

The Commission's concern for the health of the shipbuilding and repair segment of the maritime industries is directly related to a number of the assumptions that underlie its recommendations on ODS reform, for neglect of the shipyards would remove a component vital to American strategic sealift.

Accordingly, in its Second Report the Commission has provided a number of principles and stipulations that it believes are important for any acceptable and practicable ODS reform package:

First, United States ship operators should be permitted to acquire a controlled number of foreign-built ships and should be allowed to qualify the ships for ODS.

Second, a formal linkage must be established between the permission to "build foreign" and the level of merchant ship construction in U.S. shipyards.

Third, a limited number of foreign-built ships should be eligible immediately to carry preference cargo, rather than a ship being required to wait the three years as is the requirement under current law.

Fourth, a "window" should be established during which any U.S. operator with ships that qualify as militarily-useful sealift assets can enter the ships in the ODS program.

Fifth, ODS payments should be made semimonthly.

Sixth, trade route restrictions should be eliminated.

Seventh, limited use of foreign-flag feeder ships by U.S.-subsidized liner operators should be permitted.

Eighth, eventually, an age limit on ships eligible to receive ODS payments should be established; the Commission suggests 25 years for dry cargo ships and 20 years for tankers.

Additionally, we firmly believe as you do that any ODS program should be fiscally responsible, and we believe that the ODS payments should be based on total crew compensation, while still allowing wages to be set by collective bargaining.

Under the legislation that established the Commission, we are required to make two more reports to the President and Congress. In gathering data for that effort, we have already noted that the trends we reported on in the First Report are not improving on their own. When we began our work in January of 1987, for instance, and established a data base from which we could predict trends, there were 369 active U.S.-flag merchant ships; this January, that figure was down to 341, representing the loss of an additional 823,000 deadweight tons of merchant vessels. Last year, at least six shipyards, two of them major, closed their doors, while at least 16 now are operating under the protection of Chapter 11 of the Bankruptcy Code, and industry spokesmen indicate that a number of others will close this year forever unless there is work for them to do. The ills of the maritime industries are not curing themselves.

If the Commission's integrated recommendation package is adopted but still fails to provide sufficient improvement by the early 1990's, then there will be, from our point of view, no alternative to stronger measures such as the admittedly unpopular imposition of cargo preference on commercial cargo or, perhaps, a massive program of direct subsidies such as those which now go to other segments of the American economy.

The Administration, the Congress, and the industry itself must work together, and we must begin now. We need to avoid piecemeal efforts that seem to favor one interest over the others and that create factionalism and discontent rather than cooperation and progress. A top priority, however, is the Commission's first recommendation, that the Nation needs a restated national maritime policy promulgated by the President. The issuance of a national maritime policy would serve notice that the problem is a serious one and that the Government will be taking a leadership role. Given that leadership, we believe that the American people as a whole would support, indeed demand, action to redress the ills of the maritime industries.

Unless the Nation possesses, and is seen by our potential enemies to possess, sufficient sealift assets, our national security posture is simply not credible. That is a problem transcending the parochial interests of any segment of our society or of our economy.

That is the conclusion of the oral remarks I choose to make this morning, Mr. Chairman.

[The prepared statement of Senator Denton may be found at the end of the hearing.]

Mr. JONES. Thank you, Mr. Denton.

Does anyone else on your panel desire to be heard at this time?

Senator DENTON. Admiral Holloway?

Dr. Cameron?

They will be chipping in on the questions and answers, sir.

Mr. JONES. All right, sir.

Along that line, I have a rather unusual question, I guess, and I would prefer that you give it some thought before you attempt to answer it at a later date.

Other developed maritime nations are successfully addressing their loss of vessels problem by establishing what are called "international registries".

How would you view a proposal that would guarantee, at the minimum, the maintenance of current levels of vessels and U.S. citizens manning them, but would also allow operators who register subsidizable ships, to register, on a one-for-one basis, vessels in an alternative U.S.-flag registry that enables operators to meet competition head-to-head without subsidy or other public support?

Finally, are there any sealift consequences to a proposal such as this?

Mr. Chairman, what do you estimate an adequate maritime support program to meet our defense needs would cost, and how do we pay for it?

Senator DENTON. Regarding your first question, sir, the Commissioners looked a little at the offshore registry concept, and we did not find that concept responsive to our defense need.

Mr. JONES. Thank you.

Senator DENTON. Go ahead, Admiral Holloway.

Admiral HOLLOWAY. Mr. Chairman, in response to your question as to what a program based upon our recommendations would cost, we are, of course, talking about an integrated program that would eventually increase the size of our merchant fleet and our strategic sealift assets to about 650 ships, and would rejuvenate that sector of the shipbuilding industry that is involved with the construction of merchant-type ships. A very preliminary estimated cost to implement the Commission's recommendations for the first year would be about $1.2 billion a year. This is about a billion dollars for the funding of 12 procure-and-charter ships with the additional funds for the increased costs of carrying out a 100-percent government cargo preference and the changing of the DOD method of procuring sealift services.

We estimate that, if the Department of Defense were to go away from its current competitive bid system to a reformed system, the cost would be about 10 percent more, but the advantage would be a very healthy merchant marine which would be afforded the opportunity to build new ships and modernize itself. The increase in cost for a 100-percent cargo preference, I think it would provide about $462 million additional revenue to the operators and cost about $125 million more in charges to the Government.

Senator DENTON. Mr. Chairman, your question seemed to break down into about three parts. I think my initial remark addressed the general question of an offshore registry as not being responsive to our defense need.

As to the dual-flag registries, which you brought up, we have not heard of that idea, nor have we looked into it, and we will ask for more detail on it and then look at it and give you an answer to that question in writing, if you wish.

As to the cost, the staff has been working on costing out the recommendations. We had a number of reasons for not including costs in our first report, mainly because some of the combinations and permutations of events that would occur, were our recommendations to be adopted, are not predictable until they are legislated into law and actually set into practice, and the specific combinations and permutations would determine the cost. We have just yesterday did some estimates that might be useful.

The total cost to implement the Commission's recommendations for the first full year would be, in our estimation, about $1.2 billion. That is based on the funding of 12 procure-and-charter ships as well as the increased cost, as Admiral Holloway addressed, of the 100-percent cargo preference and changing the Department of Defense method of procuring sealift services.

Mr. JONES. Thank you, sir.

Mr. Chairman, the Military Auxiliary Sealift and Training (MAST) program provides that the Department of Defense will determine the necessary fleet size and then the Nation will provide the subsidy to enough vessels to meet that need, thus linking subsidy to recognized defense needs.

Does that seem like a wise approach? Does it have any sense to it?

Senator DENTON. We recommended that we have 650 ships in the active commercial fleet, Military Sealift Command (MSC), and the Ready Reserve Force (RRF). ODS reform is certainly one method of building and sustaining the commercial fleet. We believe that ODS must be operated in a way that meets the national need, but we also believe that Congress must, through the normal legislative process, determine the specifics of how it operates. The Congress should define ODS limits and requirements.

For example, although we recommend totally deregulating the trade routes, we understand that there are legitimate reasons on the part of some parties to require at least a grandfathering of that portion of our recommendation. We can get into any degree of refinement or discussion of any of the recommendations as you see fit, sir.

Mr. JONES. Thank you.

Your first recommendation was that the President declare a national maritime policy.

Do you have any indication as to when and if the President may do so?

Senator DENTON. On balance, we are optimistic, although Admiral Holloway, other members of the Commission, and I have not yet made any major personal efforts. We believe it's useful to establish some leverage through hearings such as this, to get reactions from supportive Congressmen on the issue and perhaps to get a little input from them as to the advisability of the President coming forth with a revised policy.

We have had some contact with the Department of Defense, I have talked with Admiral Crowe, and the staff, Admiral Holloway, and others have had informal contacts. We have been advised that the Defense Department is currently coordinating a draft policy statement to present to the National Security Adviser, and we have every hope that the Department's draft, along with the seven points outlined in our report, will be the basis for a new policy statement.

Admiral **Holloway**. If I could add to that, less than two months ago, in the middle of January, the Commission on Integrated Long-Term Strategy, which was created jointly by the National Security Adviser to the President and the Secretary of Defense, made its report to President Reagan. That report is published and distributed, and is represented as a possible blueprint for a national strategy for the next 20 years. There has been a great deal of interest in the White House and in the Administration in that proposal.[1]

I would point out that the proposal itself is very consistent with the conclusions and the recommendations of the Commission on Merchant Marine and Defense. They concur that, in the future, we can look to a world that is a great deal more complex in a political and military sense; that the Soviet Union will probably cease to become the single major threat; that there will be threats to our security in a number of areas; and that we will have to face those threats with a substantially diminished overseas base structure. The Commission on Integrated Long-Term Strategy says that we are going to have to rely more in the future on mobile forces, maritime forces, and sealift to move our military units around the world.

So, I think that there is an understanding in the Administration, particular in national security areas, that sealift is going to have to be part, a major part of the future national military strategy of the United States.

Mr. **Jones**. Thank you, Admiral.

Mr. Lent.

Mr. **Lent**. Admiral, the Commission's recommendation for ODS reform suggests that ODS eligibility for foreign-built vessels be in proportion to the number of vessels now being built in the United States. You also suggest that ODS reform must be completed during this Session of the Congress.

Do you have any specific ideas to help the Congress resolve the differences of opinion among the vessel operators on ODS as well as the budget problems posed by the proposed procure-and-charter program?

Senator **Denton**. Let me turn that one over to Admiral Holloway because he can best articulate the flexible attitude we have toward some of the stipulations regarding ODS in our recommendations.

Admiral **Holloway**. Congressman Lent, the Commissioners were faced with the terribly difficult task of resolving very deep-seated differences among different groups.

In making our recommendations, we had to walk a very fine line. On one hand, we could have made recommendations that would have individually satisfied every constituent but would have been very expensive and would really have had very little chance of being enacted, because of either being too expensive or being too detrimental to some element of the industry.

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[1] Editor's note: The Report of the Commission on Integrated Long-Term Strategy, "Discriminate Deterrence," dated January 1988, can be found in the Subcommittee files.

On the other hand, we were concerned that our recommendations might be too bland, not be incisive enough. As a consequence, we set as our goal to make recommendations as a package, as an integrated set of proposals that would provide the maximum benefit to all of the important components of the maritime industry insofar as they relate to national security. That is why our recommendation for ODS reform links offshore acquisition of ships to domestic construction. We believe that domestic construction is essential because we need to rejuvenate that part of the shipbuilding industry. But we also recognize, as a very practical matter, that we must allow the ship operators to construct some ships immediately, because there simply won't be more than one or two companies around if we wait three years for the procure-and-charter program to take hold and move ahead. That's the reason that we proposed a one-year window for the acquisition of ships abroad, just to keep the numbers of ship operators alive.

We do believe that the procure-and-charter program is the best solution that we could come up with to ensure the survival of that essential component of the shipbuilding industry that's involved with building commercial ships.

There are alternatives. One alternative is a ship construction subsidy, but we believed that was not reasonable. A second alternative was cargo reservation on imported oil, for example, but we believed that was extreme. That's why we came down on the procure-and-charter program, because it seemed reasonable and it would solve the problems.

But, Congressman Lent, let me say this, and we express it on our report. If procure-and-charter is not enacted and implemented, the Government is going to have to spend a lot more money and take much more drastic action in the future to make up for the shortage. Unless a procure-and-charter program, or something like that, is put in place in the next several years, the Commission believes it will be necessary to have something like Construction-Differential (CDS) subsidy again, which we are not in favor of, or to establish cargo preference on imports, which we know is very difficult and would be a great problem for a great many people in this Congress to see put through.

So procure-and-charter is our view of the best solution, and it needs to be part of the overall package to get the industry well again.

Mr. LENT. Well, we hear the representatives of the shipbuilders saying that the Congress ought to pursue a program to help the shipyards first before going ahead and doing anything with the ODS program.

What is your assessment of that?

Admiral HOLLOWAY. The Commissioners made absolutely no effort to prioritize our recommendations. Our position was that we thought all of the things we mentioned needed to be done. We also believed that, in the details of our recommendations, many of the them would not be directly transferable to the legislative process and, through the system of hearings, the Congress is going to have to make choices and adjustments.

We did not get into the specifics; we did not try to write legislation. We depend upon the Congress to take our recommendations as a package. We believe that there are decisions that you must make, and we did not prioritize what needs to come first. Having said that, we would consider it unfortunate if our presentation of a whole package were interpreted as an excuse to do nothing at all unless the Congress takes every word that is included. We do not believe that our presentation of the recommendations as a package should be an invitation for inaction.

Mr. LENT. Now, with regard to the procure-and-charter part of your proposal, we heard a quote of an estimate of about $1.2 billion. Are there any other proposals in your report to help the shipyards that are not as controversial or as expensive as the procure-and-charter program?

Admiral HOLLOWAY. Yes, I think that in the last recommendation, as a matter of fact, we are proposing task forces and Government efforts in research and development to help to build ships less expensively, and how to become more efficient in the business sense. Those are actions that will take some time, we believe, to have their effects felt, and we see no substitute for putting ship construction contracts into shipyards. The idea of simply giving shipyards money to do nothing doesn't make any sense. In the first place, this Country needs those ships for strategic sealift, and this Country needs the shipyards, that shipyard base. The two go together, and the question is, who is going to pay for it.

Senator DENTON. Congressman Lent, there are several other specific proposals to help the shipbuilding side. We recommend strengthening existing programs, such as title XI loan guarantees. Now, we recognize that the Administration has been trying to throttle that program off, and the Congress has been concerned about it. But, from what I have read, I believe that there is a good possibility we could separate out some of the things under that program that were never intended in the first place. A lot of the money that was lost was due to oil exploration, and that sort of thing. We could thrash something out that would permit title XI to survive in a way that it would be doing what it was intended to do in the first place, which is to support construction of ocean-going ships.

We also recommend strengthening the Capital Construction Fund program, and we think that the Government should help to promote foreign military sales of American-built warships. Those things would all help.

The very fact that we would have a larger merchant marine would result in more repair work in the United States, considering the geographical realities, and so on. We want to restore the original intent of the 50 percent ad valorem tariff on overseas repairs to U.S.-flag merchant ships.

I would say that the Commission has tried to give relatively equal emphasis to two defense needs: First, having enough sealift, which, of course, could be immediately achieved by buying foreign or building foreign. You could conceivably do that in that fashion.

But we have another need, and that is, in the face of unrealistically optimistic attrition rates that the Department of Defense has been using in some of their evaluations, you've got to maintain a shipbuilding base and a maritime industrial base in the United States to take care of, both more sealift, and the possibilities of losses that would come up in a war, particularly a protracted general war. We see that as a need.

Now, exactly how you actuate, orchestrate, sequentialize the fixes to those two things is going to be, in the end, a Congressional decision. I believe that the shipbuilding interests, and the national interests in maintaining that base, would be satisfied if, irrespected of the timing when a company was granted the right to build a ship foreign. There is an assurance that the shipbuilding base, the maritime industrial base, is going to be taken care of. I think that any formula which takes care of that would be OK. In other words, I don't think that the shipbuilders would stick with something that says that before a ship can be built foreign there has to be one starting in a U.S. yard.

Mr. **Lent**. Thank you.

My time is up, Mr. Chairman. Thank you.

Mr. **Jones**. Mr. Anderson.

Mr. **Anderson**. Thank you, Mr. Chairman.

Mr. Denton, this country's ODS program has traditionally provided funds equal to the higher cost of maintenance and repair, insurance, wages, and so on, for U.S.-flag operators, vis-a-vis their foreign competitors.

Now, given the current budgetary environment we are operating under, do you believe there is any way to provide funding somewhat below this higher cost and yet without undermining industry interest in this important program?

Senator **Denton**. The means by which we are recommending the continuation of the operating-differential subsidy to respond to the difference in costs between U.S. and foreign crews are slightly different from any other we have seen. I believe the total cost per ship would be somewhat less, in that we are suggesting that total crew compensation costs alone be the factor by which the differential is figured.

In other words, repair cost for the ship, insurance cost for the ship, the sort of things that are included in other operating-differential subsidy computations, would not obtain. The current system is a very elaborate computation which I have gone into over at MARAD.

As I said, we are going to diminish the cost by eliminating some of the factors that are included within ODS as presently established. I am not familiar with each of the ten or so versions of ODS reform legislation before Congress, but we think that the most valid way to do it is by the difference in total crew compensation costs and allow the wages to be determined by collective bargaining. That is, there would not be a Government intrusion into setting the wage.

Mr. **Anderson**. What about some of the items like insurance, where it is considerably higher here than elsewhere, I am told?

Senator **Denton**. Well, as I am saying, sir, I think that insurance, insofar as it is something like health insurance that affects the individual in the crew would be monies that the United States would consider as part of compensation in the ODS determination. Insurance for the ship, however, would not be included. That is the way we are proposing this.

Is that correct, Dr. Cameron?

Dr. **CAMERON**. Yes.

Mr. **ANDERSON**. Now, there are some individuals who argue that unsubsidized operators have lower costs than subsidized operators.

Did the Merchant Marine Commission report take a look at the differences of costs between subsidized and unsubsidized operators? And, if you did, could you elaborate on what your findings were?

Senator. **DENTON**. Admiral Holloway might wish to answer that.

Mr. **ANDERSON**. Admiral Holloway.

Admiral **HOLLOWAY**. The answer is, no, we did not look into that.

Mr. **ANDERSON**. You did not.

Admiral **HOLLOWAY**. We didn't, Mr. Congressman, because apparently it was not suggested that there were substantial differences. I think if that had been suggested to us, we would have. We tried not to ignore anything that we thought to be an issue. We obviously couldn't look at everything, and I would have to say that, in answer to your question, we were not made aware of the fact that there was a possibility of a substantial difference in this area, so we did not examine it.

Senator **DENTON**. Congressman Anderson, we have not looked into a number of things that bear looking into. In recommending the task forces, we were aware that we still have to look into, insofar as we can in the time permitted us, such matters as wage differentials, wage differentials between the United State and other countries. We have heard generalities, but we have done only some minimal specifics in comparing them.

The general story seems to be that there have been adjustments in demands from labor both on the shipbuilding side and at sea, which have helped to reduce costs. There is no answer at this point as to whether or not that trend has been continued to the optimal point.

There is a lot of undiscovered and, I think, needed information there.

Dr. **CAMERON**. Congressman Anderson, if I could just elaborate for a moment.

Mr. **ANDERSON**. Surely.

Dr. **CAMERON**. None of the witnesses who appeared before the Commission, neither ship operators nor anybody else, suggested that cost differentials between subsidized and unsubsidized operators were a factor of any significance whatsoever.

Mr. **ANDERSON**. When they talk to me, they often imply a difference, and I am really not sure. That's why I thought you might have that.

Now, I have taken a relatively close look at your seven major recommendations to reverse the deterioration of our maritime industry, and my understanding is that the Commission's recommendations are intended to be enacted as a total package.

Now, does that mean that any ODS program would be linked to a commercial shipbuilding program such as the procure-and-charter program?

Senator **DENTON**. Generally yes. Again, I will ask Admiral Holloway to make any comments he wants.

Our thrust, the irreducible core of our thrust, is to provide two things from the national security point of view: (a) sufficient sealift capacity to handle our requirements, and (b) the maintenance of a sufficient maritime industrial base to sustain a protracted conflict and take care of the attrition, and the sorts of things that the erosion of the general industrial base of the United States is bringing into question in other fields. Those two things, if they can be accomplished, will satisfy the Commission. We have recommended, I think, a very pragmatic and, at least, an extremely useful starting point for how to do that.

We have suggested, in the procure-and-charter program, not only something that is going to help the shipbuilding and the industrial base out there, but we have built in several very synergistic features; for example, there will be some return through the charter on the money invested. There will be ships built in that program which will satisfy shortages now existing in terms of liquid and dry cargo and unit equipment ships. If we are going to have enough, those ships have to be built anyway. We are not convinced that something better can't be developed, but we're reasonably pleased that we did come up with something that is workable, pragmatic, and adequate.

Mr. ANDERSON. Thank you, Mr. Chairman.

Admiral HOLLOWAY. May I add to that, Mr. Chairman?

Mr. JONES. Yes.

Admiral HOLLOWAY. First, the Commissioners did not get into the specific format of legislation. We early on decided that we were not going to attempt to write legislation. I think I speak for the Commissioners when I say we did not consider whether our recommendations would be an omnibus bill or a set of individual bills. We did not get into those issues because we decided, fairly early on, that we would not ourselves get involved in the legislative process.

Second, we worked very hard to resolve the issue between build foreign and build in the United States. We need two things: We need ships, and we need a strong shipbuilding industry. We propose linking a build foreign program with a domestic shipbuilding program. We also recognize that we are faced with an immediate problem. The language of our report, it says, "United States ship operators should be able to procure vessels at competitive world market prices. The recommendation allowing foreign-built United States-flag ships to be eligible for ODS should ultimately have no limits in terms of time, ship type, and numbers, but the Commission recognizes that, realistically, such a provision is not now desirable. The Commission, therefore, recommends that, for an initial year the worldwide procurement provision be implemented, in parallel with the institution of the domestic shipbuilding program recommended elsewhere in this report, in a way similar to the 615 exception in the Merchant Marine Act of 1936, which specified a temporary window of eligibility.

The reason that the Commissioners believed that this was important was we all know that there are several operators in extremis; they cannot remain viable economically without modern ships, so we must break the impasse that we find ourselves in now, in which the operators are unable to modernize their fleets. By giving one year's exception, we believed that it would help to save several operators, would keep the merchant marine from diminishing to a very low point, and would give us the platform on which to expand the merchant marine. The procure-and-charter program could not begin to deliver ships for three or four years, and there are certain merchant marine operators that simply, in our opinion, could not survive until the first ships begin to roll out. The one-year exception was our view of trying to save those companies because our—shipping resources were too low and we believed that we could not afford to see the size of our operating merchant marine decrease any further.

Mr. ANDERSON. Thank you, Mr. Chairman.

Mr. JONES. Mr. Shumway.

Mr. SHUMWAY. Thank you, Mr. Chairman.

Gentlemen, one of the programs that we have looked at, and I know you have considered this in your report as well, has been the new build-charter program, which would have the Defense Department, through MARAD, work with the private sector and build sectors which have both a military use and a commercial use.

Generally speaking, are these kinds of vessels, rather, the kind of vessels that the private sector is interested in, also the kind of vessels that have military use for sealift capacity in time of war or emergency?

Senator DENTON. Yes, sir. The ships that would be built under the procure-and-charter program must necessarily, in order to be charterable, be commercially practical in competitive terms. That has to be the guiding principle on which they are designed and constructed. But in order to help to meet the military shortfalls in certain categories of ships, they must have an ancillary utility in military sealift.

On the other hand, when you start developing the prototypes for ships that we are going to call the mobilization ships, which you would only build during a war, you are going to design them specifically for military utility and fast construction, not for commercial viability.

The procure-and-charter ships, though, are going to have to be able to make some dough in the competitive market and, at the same time, be able to fill some of the shortage that exists in strategic sealift. That's the way we looked at it.

Admiral Holloway, you might be able to polish that up some.

Admiral HOLLOWAY. I think it was very well said. There has to be a compromise. Ships that are optimized for military service are usually not competitive in an economic sense. There needs to be a balance. That is, I believe, a point that we make in the discussion in our report. In the procure-and-charter program, the ships that are procured with specially useful military characteristics may have to be chartered at concessionary rates. We have to accept that fact, because we doing something for national security, but we would be getting some economic return too.

It would not be a return so great, perhaps, as to show a profit, but at least we would be diminishing the size of the net defense outlay.

Mr. SHUMWAY. Would that balance that you referred to, Senator Denton, be struck by some kind of a joint determination by both military and private interests so that each of them could——

Senator DENTON. Well, MARAD would be the Government voice for the industry's needs, and the Navy would be the voice for the Navy's needs, and they both have a common interest in where the balance should be struck. Industry would be a vocal contributor to that determination. For example, if the build-foreign provision produces on adequate supply of dry cargo ships, and there is a need for liquid cargo ships, then the program would probably tend in the direction of building liquid cargo ships at that time.

Mr. SHUMWAY. One of the things about this entire subject area that has been intriguing to me, and I ask this question because I know two of you, at least, I don't know about Dr. Cameron, but you had backgrounds in military service.

But the problem has been that the Defense Department, for whatever reason, has just not considered strengthening the U.S. merchant marine a high priority. Now, I hope that, with your Commission's findings, perhaps that will change.

But could you address that issue? Why hasn't DOD held this as a top priority, and how do we go about getting DOD involved in this area?

There seems to be even a combative relationship between DOD and MARAD. Why is it those agencies don't work better together?

Senator DENTON. Any Government agency or department, such as Defense, is going to want to have its appropriation as low as it can be for operating expenses like procurement of shipping services, and so they are going to want to pay the bottom dollar, because, as you know, we are in a serious budget squeeze. So, for them to try the limits of any of the cargo preference laws to save money on cargo that would otherwise be carried at a higher cost is sort of a natural propensity on their part.

Again, if our merchant marine capacity is to be built up out of naval appropriations, their minds necessarily are on the question of: "Do we have enough cruisers, carriers, destroyers, submarines, do we have enough people?" The logistics are a necessary thing, but a second thing to having the forces themselves.

So they tend to be that way. On the other hand, if you read Admiral Crowe's statements, and Cap Weinberger's, and I hope Mr. Carlucci's, you will find support for the maritime industries. I think that support has been diminished somewhat by the tendencies I just mentioned.

Admiral HOLLOWAY. Congressman Shumway, from a historical perspective, I think that the problem is that the strategic sealift shortage currently is fairly new. It's post-Vietnam. We had adequate sealift during that conflict. It was probably during the early 1980's that it was recognized we might have problems in getting enough U.S.-flag ships for a major deployment of forces to the Indian Ocean area. Frankly, up to that time we had looked at sealift mainly in terms of the NATO scenario, and under those circumstances we had the fleets of our allies we could depend upon.

The shortage in strategic sealift was probably recognized in the early 1980's by the Department of Defense, and then the second stumbling block came on differences of opinion in how to correct it. I think that, generally speaking, the Navy has favored a massive reserve fleet that it would mobilize in times of national emergency. The Commission, in our investigations, has decided that the reserve fleet concept has some very severe problems, and we believe that a combination of a reserve force, plus a larger active merchant marine, and an industrial shipbuilding base to support both the Navy and the merchant marine is the answer.

I agree with what Senator Denton has said, that there is an increased awareness on the part of senior people in the Department of Defense that a merchant marine is absolutely essential even if we have a sizable reserve fleet, because we must have the sailors, the mariners produced by the operating merchant marine, to mobilize the ships that are in reserve.

Mr. **Shumway**. Perhaps it will just take some time, then, for these ideas to sink in, but I think, certainly, the report of your Commission will be a very important chapter as this process goes along.

I appreciate your being here this morning.

Senator **Denton**. Thank you, sir.

Mr. **Jones**. Mrs. Bentley.

Mrs. **Bentley**. Mr. Bateman was here first.

Mr. **Jones**. Mr. Bateman.

Mr. **Bateman**. Thank you, Mr. Chairman.

Gentlemen, I like your recommendations very much individually, but I especially like them collectively. And you make a strong point in your testimony today and in your report of your recommendations are integrated recommendations. And today I hear you using, several times, terminology "formal linkage," "build foreign" authorization, and your "domestic shipbuilding."

I'd like, if you would, to have you elaborate on how you would suggest we preserve that formal linkage between any proposal for building merchant vessels in foreign shipyards or foreign procurement, and the assurance that there is going to, indeed, be a domestic shipbuilding initiative, meaningful.

How do we preserve that linkage if we are going to, or anything happens on the domestic shipbuilding front, allow procurement of foreign-built vessels?

Senator **Denton**. Thank you for your remarks about the value of the Commission. I wish to acknowledge the efficacy of your own part in persistently asking responsible people in the Department of Defense and other witnesses who come before you what they think about this matter, because they can forget, they tend to forget. The matter about whether the President will come forth with a new policy statement will probably depend on what he hears from some of those people you are talking to. So we just want to take note that you have, and we hope others have been also, or will be helpful in that respect.

We have been discussing the issue of linkage, Congressman Bateman, to some degree. We have said that we can take care of the sealift shortage by the avenues we've chosen to, and take care of the equally important reinvigoration of shipbuilding. There is no other way around it. Practice makes perfect. Practice is going to keep the shipyard workers working, it's going to keep the technologies advancing, it's going to keep the machinery being used. The opposite has been going on, we have been deteriorating. So we on the Commission have no lack of determination to emphasize the need to take care of those two problems. The specifics are laid out pretty well in our report as to how we would do it.

The question of legislative prerogative has come up. Not only are we not mandated to originate legislation, although I understand why Members would always like for somebody to write the bill. This group, although we have a great staff, we don't have legislative counsels, we don't have people prepared to draft actual legislation. And that's one of the reasons we decided we wouldn't undertake to do it.

I believe that you have a sufficient set of indices as to our intent. Some of our recommendations are stipulative. We say ODS should be done in thus and such a way, like semimonthly ODS payments, eliminate trade route restrictions. Those are stipulations. We also have principles; "fiscally responsible," "based on compensation cost for commercial crews," that are not so much a stipulation. Then we get into nuances: "permit a controlled number of foreign-built U.S.-flag ships to be eligible for ODS." How many? How many are politically floatable, considering the interests of the respective groups required to be sufficiently together to get legislation through Congress.

You guys are much more expert at that. You have better political contacts than we. We have exposed ourselves to a few hearings, but we are limited in our time involvement in this, compared to you. So you are going to come up with the specific political determinations, and I hope that what we have presented to you, and the degree of hope that has been instilled in the components of the industry, will provide momentum. There is a feeling, I think, of confidence developing that we might be able to get something going.

Mr. **Bateman**. I thank you for, especially, your preliminary remarks, and I am in hopes that we will be seeing you this afternoon before the Seapower Subcommittee of the Armed Services Committee, where we will be chipping away at the problem and, hopefully, having larger impact.

Let me just conclude without taking too much of the Committee's time or yours. It was the conceptual concern that I feel. I don't have any problems with, based upon the best and most expert advice I can get, continuation of ODS. What gives me pause, especially in light of the cogency of your recommendations of integrated recommendation, initiatives, and formal linkage to "build foreign" or buy foreign. If we are going to adopt a comprehensive ODS form that includes a build-foreign component, then you have made it that much more difficult to ever get implemented the domestic shipbuilding. And I don't feel very comfortable that diminishing leverage likelihood of taking care of that component by having taken care of other people's component, thereby diminishing the urgency.

So any suggestions, any ideas that come to you as to how this Member can maximize the likelihood of retaining effectively this linkage, I'd certainly like to have those suggestions, recommendations if they occur to you.

Senator **Denton**. As you can imagine, the danger, as seen from the shipbuilding side, in "build-foreign" was acknowledged at the outset. That is why it is absolutely imperative that we all accept as a fact that our vision of the national interest entails equally responding the need to retain, and really rebuild, the maritime industrial base.

Now, we can hear all kinds of charges about inefficiency in the management, too much labor cost, and all that. A test of that is the reality of failure of so many shipyards. If they could do better, they surely would be doing better because they don't want to perish. I don't mean that some improvement can't be made, perhaps by R&D, or some equivalent to the Marshall Plan aid we gave to Europe which put them about 25 years ahead of us. There's an element of that problem in our shipyards, although to what degree they are culpable for not having made capital investment for modernization, I don't know.

But build foreign, the procure-and-charter are twins. You don't necessarily have to put in the law that the instant you permit someone to buy a ship in Taiwan or build a ship in Taiwan, you've got to have the ship starting to go on the ways in the United States. We'll leave the specifics to you because you are a man who is going to ensure that we take care to preserve the maritime industrial base. We will work with you, in any way that you choose to undertake with us, to develop the specifics of how that linkage is established. We've already committed to work with Congressman Jones and Congressman Bennett, as their experts work on legislation, and we will be happy to work with you on that particular provision, because it certainly will be a crucial one.

Mr. SAXTON. Will the Gentleman yield for just one point of clarification?

Senator, can you detail for us what that linkage is exactly between the procure-and-charter program and the build-foreign program that you envision? Exactly how do they fit together?

Senator DENTON. We have been most careful not to go further than our own understanding or agreement on that subject. The only thing I could do to you is read what we have in the report. We have it said in several places that they are more or less coincident with one another. It is very sensitive wording. One paragraph says: "Foreign procurement of ships should be linked to the level of merchant shipbuilding in United States shipyards, upon which primary reliance should be placed for expansion of the commercial fleet. For that purpose, the Commission suggests that ODS eligibility be given to newly foreign-built ships in proportion to the total number of oceangoing merchant ships under construction in any year in United States shipyards, including those ships being built under the procure-and-charter program recommended elsewhere in this report."

Now, you, Gentlemen and Ladies, know better than I, there are all kinds of ways to put that web into steel, and how to do it is going to be up to you. Our wording is our suggested starting point.

Mr. SAXTON. We appreciate your confidence in us, very much.

Mr. JONES. Have you concluded?

Mr. BATEMAN. Yes, Mr. Chairman. Thank you.

Mr. JONES. Mr. Saxton.

Mr. SAXTON. Mr. Chairman, thank you.

I have been talking about ship investment, and how a company invests in ships; specifically, how ships are financed.

Would any of you care to suggest to us—I don't see it in your recommendations, and I think I have been through them fairly thoroughly, unless it is hidden under the general topic of how you make shipyards operate more efficiently—as to how one might approach the subject of finding better ways to finance ships? Is there anything in your report that deals with that subject?

Senator DENTON. Yes, sir. We do have several items, including some complex things involving letters of credit.

We mentioned the Capital Construction Fund program and the title XI loan guarantees being strengthened, which are relevant to your question. And I have already made some remarks about title XI. I have looked into some the hearings, and seen Senator Rudman discussing the ills in the title XI situation. What appalled him most was the billions of dollars lost in forfeitures in the oil industry, oil rigs, that sort of thing, which aren't connected with the merchant marine. It seems to me that there is room for exempting that sort of stuff, limiting the program to merchant ships, and keeping it. You probably know a thousand times more about that than I, but you have kept title XI alive, and we believe that we need title XI and that we need the Capital Construction Fund.

I note, in passing, that if we built commercial aircraft like we build merchant ships, we'd buy our commercial aircraft from Korea, too. Our aircraft manufacturers wait for an assurance of a minimum number of orders they are going to have before they start construction. A shipbuilder doesn't have any guarantee of volume production. He builds one ship at a time, and it's almost like craftsmanship rather than industrial production. It's a design-from-scratch thing. We could do a lot better in that respect.

But we have specifically said, keep title XI financing and the Capital Construction Fund.

Mr. SAXTON. I once sat with a ship operation company group of executives, and I asked the question, what would happen if the Federal Government did some kind of a program—either a subsidy, an interest subsidy program, or a guarantee program—that would encourage investment in shipbuilding by other than operators, by banks, by people who are willing to lend money, by people who are willing to invest, what would happen to the shipbuilding industry if we were able to reduce below the current level of interest by one or two points. And a company executive said, "We would jump all over it." And I suspect that perhaps there have been some recommendations in terms of keeping title XI, but I have been trying to say for about two years, without being able to get many people to listen to me, that that is one of the key ingredients, in my view, in structuring a total program to help promote shipbuilding and ship ownership by American companies. And I am again looking through your recommendations, and I have noticed, I think, lack of focusing on that area.

Senator DENTON. That's right, and it is not one which we fail to recognize the importance of. We have read recently about how improved financing arrangements, innovative ways of doing things, could help pull us out of this hole. If you have any ideas, or if you know of anybody who could tell us of some things that we might say look good, we would welcome them, and would look into them.

Mr. SAXTON. Finally, I would just like to make an observation, and this is for public consumption and for the record. I, like my colleague on my right, Mr. Bateman, appreciate the work that you've done very much, and enjoyed watching the work of the

Commission and am in general agreement with most all of the recommendations that you make. I think that all of us on this Committee and all who are involved in this restructuring of the industry to try and make it healthy have to stand up and recognize very forthrightly that all of the recommendations that you have made and all the things that we are going to propose to do on the Committee are going to cost somebody something. And if the Administration, which I like very much since I happen to be a Republican, is going to stay in the position of saying we want all these things to happen but we're not going to spend any money to do it, I think we are all in for a rude awakening, because that's the direction we're headed in, and I think we have to recognize that it is a big enough problem that we have to make those expenditures. And what we ought to do, rather than to try to say we're not going to make those expenditures, the Administration or whoever wants to take that position is to say, how can we make those expenditures and do it in the most efficient way possible to encourage the industry to flourish? And I think that's just a basic recognition that I hope those who look at your report will recognize and take to heart.

Senator DENTON. Well, you said something I think we can incorporate in other reports that we produce. There are valid gimmicks by which the prescription can be more comfortably swallowed. One is "pay me now or pay me more later." The "prime the pump" thing, which is I guess the category of yours, is "if you give a little bit here, it's going to be a lot better later."

I would say, too, Ladies and Gentlemen, that there is a link between how comfortable the Department of Defense is with what they are receiving in terms of appropriations and how likely they are to be enthusiastic about putting defense dollars into this field. Because they've got to have the forces first before they are going to get that concerned about how much they are going to sustain the forces overseas. I lament the fact that, in President Kennedy's time, we were spending twice for defense what we were on social services, generally, and today we are spending twice as much, generally, on social services as we are on defense. The times do not justify that shift and I believe that it is related to the difficulty which we have in moving ahead on strategic sealift.

I wish there were more recognition of the overall problem on this side of the Hill, if I may say so, in terms of the overall votes on spending. As Gramm-Rudman continues to function, it seems to me we have a built-in propensity to favor the social spending side, which is three-quarters of the budget, because if cuts are required, Defense takes half of the cuts, with only one-quarter of the budget, and social spending takes half with three-quarters of the budget. That's disproportionate, and defense spending is starting to shrink anyhow.

What is going to stop the process by which the new welfare reform program increases by billions and billions of dollars? If a Nation diminishes defense spending year by year inevitably by that kind of equation you'd sink Hungary, or ancient China, or the United States just from that fact alone. I don't see that as a happy situation. I think there ought to be somebody who stands up and says, "We've got to change the way we approach our national defense. Defense is supposed to be appropriated for by need, not as a result of what we were able to achieve in budget economies. I'm sorry, I didn't mean to do that, but that was the great problem that concerned me most when I was in the Senate. [Laughter.]

Mr. JONES. Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman.

Senator Denton, and Admiral Holloway, and Dr. Cameron, I do want to compliment you on a very excellent report, particularly in view of the time constraints that you had on it.

And I ask unanimous consent, Mr. Chairman, to include a statement in the record.

Mr. JONES. Without objection, it is so ordered.

[The prepared statement of Mrs. Bentley follows:]

STATEMENT BY HON. HELEN DELICH BENTLEY, A U.S. REPRESENTATIVE FROM MARYLAND

Mr. Chairman, I would like to take a few minutes this morning to express my appreciation to the members and staff of the Commission on Merchant Marine and Defense.

Once again, the problems and issues that have besieged our maritime industries, many to the point of extinction, have been accurately identified. Many more U.S. firms and, indeed, entire industries will surely follow those driven out of business unless we here in Congress and the Administration are willing to come to grips with these issues and take strong, positive steps to correct them.

To date, the Administration has been silent on the Commission's report and its list of recommendations. I am not totally surprised nor shocked by its lack of response. Quite frankly, I fully expected it, because the current Administration has refused to recognize the important role our merchant marine plays in the defense of these great United States, nor its role in the movement of international cargo.

The carriage of U.S. international commerce on U.S.-flag ships has declined to only 4 percent. That is a national disgrace, something that I, as an American citizen, am not proud of.

The Congress, in fact, we here on the House Merchant Marine and Fisheries Committee, must take the lead in legislative initiatives to assist our merchant marine, our shipbuilding and repair industries, as well as the supplier industries which are rapidly going out of business.

Mr. Chairman, I find it ironic that many of our Colleagues will debate for hours in various Committees and on the Floor of the House and the Senate on the virtues and merits of protecting and saving wildlife species that are endangered and on the verge of extinction.

Yet, many of these same Members, and those less vocal but just as supportive of these same causes, remain silent and cast "nay" votes on important legislation designed to protect and save American industries and American jobs that are endangered and on the verge of extinction—industries and jobs that are as important to our American way of life and security as plant and animal wildlife are to the world which we share.

Mr. Chairman, the bills before this Subcommittee are complex. They attempt to address very complex issues. But we must never lose sight of our goal, and that is to enhance United States interests—not foreign. I say that because I am having some real trouble justifying any support for the Commission's call for authorizing limited and controlled worldwide procurement of ships in parallel with implementation of new domestic commercial shipbuilding programs.

I realize the need for U.S. operators to replace aging tonnage, and I will support a construction-differential subsidy program to enable them to accomplish that need, but I cannot sit here in this Subcommittee and support a program that is detrimental to the U.S. shipbuilding industry.

I, like several of my Colleagues, have a shipyard in my district that is grossly underutilized and is always in danger of being added to the ever growing list of U.S. shipyards with "closed" posted on their front gates. I don't want to see my shipyard added to that list and the men and women working there forced into a situation where they will be standing on line to receive an unemployment or welfare check.

Legislation reforming operating subsidies is a must and is the first step we must take in aiding vessel operators. I am heartened that the industry is putting their differences aside and is developing a united front in addressing reform. If that unity can be maintained, success is inevitable.

Thank you, Mr. Chairman.

Mrs. **Bentley**. What has been the attitude of the Administration? How has it been received?

Senator **Denton**. Well, Mrs. Bentley, first let us acknowledge your longstanding stature in this field, and we thank you for your compliment.

We haven't brought on a showdown. I have not said that I want to see the President so that I could say "By golly, Mr. President, when are you going to do something" or "Why don't you do such and such right away." We're waiting for some of the accumulation of momentum, which I believe can come from any representations that you all make about the matter, and from the other side of the Hill. As perhaps a minor example, Representative Bateman was asking witness after witness, Secretary Carlucci and Admiral Crowe, questions about the sealift problem a couple of weeks ago. "What do you think about this?" He elicited good statements from them.

I have seen and talked with Admiral Crowe about this on a number of occasions. I saw some people over in the National Security Council. When we think the time is ripe, and we'll take your advice on that, we'll be willing to make a direct frontal assault, and say "Let's put up now; it's time." But we have been deferring that until we accumulate a little momentum.

Mrs. **Bentley**. We have had a lot of words here this morning about maintenance of a sufficient industrial base, and national security, and all that.

Senator **Denton**. Excuse me, Mrs. Bentley. Perhaps you weren't here when I said that we have been advised by the Department of Defense that they are preparing a direct policy statement to present to the National Security Adviser, and we have reason to hope that it is going to be O.K.

Mrs. **Bentley**. I'm glad to hear that. Then let me backtrack a little bit, I'll come to that point again.

The one thing that I've been looking for in the many, many years that I've been around this city, is a policy, a maritime policy out of any Administration. Do you think we might get one?

Senator **Denton**. If I had to bet yes or no, I'd say yes.

Mrs. **Bentley**. That's a good note of optimism. I hope you're right.

The maintenance of the sufficient industrial base has been mentioned, and the importance of our national security. The one ingredient that hasn't been tied in with all of this is the lack, the loss of skilled people. And I think that is almost as important or more important than even the shutdown of some of the plants, because we can't replace these people. And I have found, in the shipyard in my district, for instance, they have an awful time getting skilled people. The Navy had to import electricians from—the electricians came from the Philippines up to Philadelphia; and, in Long Beach, the riggers and the boilermakers came from Japan last year, because they said they were not able to get these people in this country.

Now, what are we going to be faced with in an emergency? And do you find that we are not getting our people going into these industries to learn these skills or trying to learn these skills because there's no future there? Is this one of our problems?

Senator DENTON. Definitely, yes, and we had a good deal of space, proportionately, devoted to the availability of skilled personnel in our "Findings of Fact and Conclusions." In our "Recommendations," I don't believe we claimed to have solved that problem or recommended ways to do it, other than maintaining the industrial base and increasing the size of the U.S.-flag fleet, which, in terms of seagoing and land-based personnel, would tend to take care of the problem. But there is much more to that picture that we might be able to contribute to, and during this year perhaps we will be able to make a further contribution on that, Mrs. Bentley.

Mrs. BENTLEY. I'm finding from the shipyards that I've been talking with that there are many components, just what we used to consider ordinary components, that they've had to go overseas to buy. And I have to ask myself if we're doing that now, when we get into an emergency and we don't even have the ships to bring the stuff back, what are we going to be doing?

Senator DENTON. That was my biggest shock when I went through the experience of the past year on this Commission. I had no idea of the degree to which the industrial base of the United States, most specifically the maritime industrial base, had shrunk, and the degree to which we are dependent on overseas countries for some of the equipment required for our combatants. Indeed, I have learned that we are dependent for some critical components on some Eastern European nations. We have not begun to assess the full depth of that yawning chasm. I hope the Government does look at it, because the United States, moving toward a services-based economy and away from an industrial economy, is in a position that it has not yet assessed in terms of its security requirements.

Mrs. BENTLEY. From your findings of—just as we are right now—now I've heard, well, we revved up in World War I and we revved up in World War II, and we could do it again.

Could we? As we are right now?

Senator DENTON. We have identified specific shortfalls as they exist today. They are relatively marginal, both in a global conflict and in a single theater conflict in Southwest Asia. In contrast, we have found that inescapably appalling circumstances would obtain in the year 2000, given current trends, which are not improving. The trends are worse than we anticipated. The biggest shock I had was seeing that the supplier base—these components that you are talking about, is simply not there for major categories of equipment. We've got to assess that and decide what we're going to do about it, but that's bigger than this Commission because it isn't within our mandate. There is no question that the base of shipyards and repair facilities, their industrial suppliers, and their manpower is currently inadequate and continuing to deteriorate at an alarmingly progressive rate. We said that as one of our findings.

Mrs. BENTLEY. If the procure-and-charter program were put into effect, calling for at least 12 ships per year over a 10-year period, how many shipyards do you believe this program would involve?

Senator DENTON. I've heard discussion of that on the commission. I don't know whether an exact answer can be given, because some of the work that would be directly achievable from the procure-and-charter program, which might go to a number of shipyards, say five or six, would result in work that would otherwise have been done at those shipyards perhaps being available to smaller shipyards around the country, repair work or other contracted work. Now, that may not be an accurate way to say it.

Dr. CAMERON. If I could, Mrs. Bentley, one view that was advanced was that if you appropriated funds for 12 ships a year, on roughly a two-year total construction time per ship, you could keep 12 shipyards more or less comfortable at that level—well, not comfortable but at least survivable at that level of effort. It is clear that the program, by itself, would not address all the problems of the industry.

Mrs. BENTLEY. Is one of the problems in shipbuilding and other forms of industrial base our procurement policies, the fact that there is no continuity, we go on a year-to-year out-of-pocket basis, all mandated by the Congress in this fashion?

Senator DENTON. Admiral Holloway has plenty of experience in that field, and I am sure some valuable observations.

Admiral HOLLOWAY. I think that what you have said is correct. That is one of the major reasons for the gross inefficiencies in most of our defense procurement. Not only does it vary from one Congress to another, but it tends to vary from one Administration to another. For example one Administration cancelled the B-1 and the next Administration resurrected it at extraordinary cost.

In the case of shipbuilding, I think that there has been a dilemma for both the industry and the Navy for years. It could perhaps be solved by a multiyear shipbuilding program, which the Navy would like but which the Congress does not like because it takes away the flexibility in subsequent sessions. The Navy would also like to see directed procurement as, for example, assuring a company that is good at making submarines that they would make submarines in the future and they could specialize. My observation has been that the industry does not particularly like that. Parts of the industry do, but other parts of the industry would like to protect their opportunities in the future for getting into new kinds of work.

Certainly a combination of those two things, a multiyear shipbuilding program and some form of regulated or directed construction by the Navy, would probably solve a lot of problems if a formula can be put together that would be acceptable to the Congress, to the Navy, and to the industry.

Mrs. BENTLEY. I have heard estimates that, because of our system of procurement, again mandated by this Congress, that we add about anywhere from 20 to 30 percent to the cost of doing defense business.

Have you heard any figures at all?

Admiral HOLLOWAY. I think that that's a fairly good estimate. Two years ago, the Packard Commission studied the whole business of defense acquisition and came to the conclusion that it was instability in the system that was causing the increases in price. Reforms were recommended. As I recall, the recommendations of the

Packard Commission were accepted in toto by the Administration, by the White House, but the Congress has been very slow to adopt them, I think for many of the same reasons that I have mentioned. Multiyear procurement has been demonstrated as a way to bring down prices dramatically, but the number of military programs that have been permitted to use multiyear procurement is numbered probably at fewer than a dozen.

Senator DENTON. There are other features, Mrs. Bentley, that address your question about procurement problems: the low bid system, not considering value sufficiently, the conflicting requirements between the Department of Defense and the Department of the Navy, the NATO Rationalization, Standardization, and Interoperability Program, general bilateral or reciprocal memoranda of understanding, they all have effects that might be good in some respects, but not in the respect of efficient procurement, not in the respect of being considerate to the suppliers of the goods or service involved.

Mrs. BENTLEY. You mentioned NATO. Are there sufficient ships available from our NATO allies, together with what we have now, for an emergency? I'm talking just on the military end.

Senator DENTON. The short answer is no, and it's getting worse.

Mrs. BENTLEY. And what would happen to the civilian population under such circumstances?

Senator DENTON. We have broken down in fundamental figures what would be required for the economic security of the country, say in a protracted war. It's all rather dismal, especially when you get out to the year 2000. NATO is experiencing the same kinds of trends, generally speaking, in their merchant marines, and some NATO countries are having second thoughts about the degree to which they have allowed foreign flagging. Generally speaking, the expectation that NATO would be able to handle sealift for us in their theater is not valid anymore.

Mrs. BENTLEY. Somebody mentioned a massive reserve fleet that the Navy was depending on, or the DOD was depending on; again, in an emergency.

I happened to fly over the James River Reserve Fleet last Saturday, and I had been down there a number of times in the 1950's and 1960's, and I can say I would hate to have to depend on it today.

One last question: Instead of a procure-and-charter proposal, supposing we had a cargo preference mandate that 20 percent of all cargoes moving in and out of the United States had to move on American-flag ships, with the proviso that those ships have to be built in this country. In your opinion, would that be workable if we could get that through? We almost got it through one time, years ago.

Senator DENTON. Well, you are aware that we do recommend extension from 50 percent or 75 percent of many kinds of Government or Government-impelled cargo to 100 percent. Now, that's Government and Government-impelled as you are aware. We have not considered, as an immediately desirable alternative going to commercial cargo preference for a number of reasons. I think that it would be extremely difficult to get through, and it would raise the price to the shippers tremendously.

Mrs. **Bentley**. Why? I mean, you know, I'm not sure I agree totally on that.

Senator **Denton**. Well, I can't give you numbers, but I believe you would deny them the opportunity of sending cargo on foreign ships that would cost less, perhaps, than U.S. ships, that's all.

Admiral **Holloway**. Congresswoman Bentley, we did look at cargo reservation. We studied it, and we discussed it at some length in the Commission. We felt that a cargo reservation on imported oil made more sense to us as a manageable system, since that would not affect U.S. producers. Cargo preference on exports, of course, could tend to increase the expense of the U.S.-produced product, make them perhaps less competitive in overseas markets. Just to begin with, we thought that cargo reservation on imported oil, looking at 10 to 15 percent initially and requiring that all ships that carry that reservation oil be U.S.-built, would provide sufficient work in U.S. shipyards and sufficient tankers to satisfy national security requirements. We never tried to go beyond meeting those needs.

As Senator Denton has pointed out, however, we were persuaded in the discussions that we had that legislation to accomplish cargo reservation could be terribly, terribly difficult, but we did not eliminate it from our consideration. We thought we would start with the procure-and-charter first. As you probably know, in several places in our Report of Recommendations, we said that if procure-and-charter doesn't work, then more heroic measures, such as cargo reservation, would be necessary, because if we do let our shipbuilding capability evaporate, if we do let our merchant marine sink to an extraordinarily low point, then, as Admiral Crowe said, we are going to have to buy them both back at a terribly expensive price.

Mrs. **Bentley**. Mr. Chairman, I think on the cargo preference we need to get into that to, at least, follow up on what the Commission has recommended on getting 100 percent because, as you know, many of the agencies really try to skirt the law in that area right now.

Mr. **Jones**. Many of the agencies do skirt the law.

Mrs. **Bentley**. Thank you, Mr. Chairman.

Mr. **Jones**. Mrs. Bentley, thank you, very much.

Senator Denton, Admiral Holloway, and Dr. Cameron, I want to thank you all for your appearance here this morning, and also to sincerely thank you for the effort you are making to try to restore and revitalize an American merchant marine system.

Thank you, very much.

Senator **Denton**. Thank you, Mr. Chairman.

Admiral **Holloway**. Thank you.

Dr. **Cameron**. Thank you.

Mr. **Jones**. Our next panel consists of Mr. George H. Hearn of the Waterman Steamship Corporation, Mr. Erik Johnsen of Central Gulf Lines, Incorporated, and Mr. George F. Lowman, Chairman of the Board and Chief Executive Officer of Farrell Lines, Incorporated.

Gentlemen, be seated. The Chair will recognize whichever one wants to go first.

Mr. Hearn.

STATEMENT OF GEORGE H. HEARN, EXECUTIVE VICE PRESIDENT, WATERMAN STEAMSHIP CORP.

Mr. **HEARN**. Thank you, very much, Mr. Chairman.

I certainly would like to join, on behalf of Waterman Steamship Corporation, with your Colleagues and Members of the Committee in congratulating you for bringing up this important hearing at this time.

I would like to give you just a little background on our own particular position.

Waterman's perspective on ODS reform legislation comes from Waterman's history. In the mid-1960's, Waterman decided to participate in the ODS program and cooperated with the Maritime Administration in establishing U.S.-flag service to the Middle East, Far East, and Europe. In the early 1970's, Waterman started an ambitious new building program concentrating on LASH vessels. The first three LASH vessels were highly successful. However, when the time came for Waterman to build additional vessels under its ODS agreements, Waterman informed the Maritime Administration that building the vessels at that time appeared imprudent because market conditions in the Far East could not support vessels with these high costs. MARAD insisted that the vessels be built and suspended Waterman's ODS until the company finally agreed to construct the new vessels.

Waterman was given no choice, and the vessels were built in United States yards with United States steam turbine engines. The result was financial disaster. The market could not support the operation of these ships. Waterman lost all of its working capital and ultimately had to file for reorganization under the bankruptcy laws. Waterman successfully reorganized in 1986, but because of these financial losses, Waterman was not in a position to take advantage of the various build-foreign opportunities that the Congress had provided.

Too often, Congress has been presented with policies conceived in haste and designed for short-term gains. This is not the time to repeat that history. In considering ODS reform proposals, we must look realistically at the current situation and plan for the long term. We believe the long-term development of Waterman, as well as the entire United States merchant marine, depends, to a large degree, on cooperation and orderly development of services. We ask that, if the 1936 Act structure is to be changed, that Waterman Steamship Corporation not be destroyed in the process. We have participated in that program to our severe financial detriment, investing over $90 million over the years and not paying a dividend to shareholders, and we hope that we will not be penalized for honoring our obligations under our ODS contract and the 1936 Act.

It is the conventional wisdom of everyone today that the 1936 Act has been a failure. However, without that Act and related promotional provisions, there would be no merchant marine because the complete package of promotional programs includes supports which have been necessary for every United States-flag operator's survival. There have been many reasons, including those promotional aids, for the survival of the few remaining operators, but none of the changes proposed by the carriers' H.R. 3808, or the Administration's H.R. 3537 would have saved any of the departed carriers, and de facto deregulation was responsible for the demise of United States Lines.

Deregulation will not solve the problems confronting the United States merchant marine. The simple truth is that the current situation in the shipping market has too many ships chasing too little cargo. As the Financial Times noted on March 7, 1987, the depressed world shipping market is suffering from 25 percent of overcapacity. As that same publication said on December 22, 1986, and I quote: "After 10 years of maritime recession, governments still do not know what to do about the problem of too many shipyards turning out too much tonnage, and too many ships chasing not enough business." The situation is unchanged today, and the industry is still severely overtonnaged.

The solution to the overtonnaging problem, with its attendant low rates, rests, in large part, on United States-flag carriers rationalizing their services rather than engaging in destructive competition that will result in what is now being called "flexibility." In fact, this Committee's report on the 1984 Shipping Act cites the benefits of rationalization and argues eloquently for rationalization. The point of rationalization, which can be achieved by revenue or cargo pooling agreements, joint service agreements, and other similar agreements, is to focus U.S. competitive efforts on foreign-flag operators and not on each other.

Mr. Chairman, there is no quick fix. Orderly development is the only way to solve the problem of unsatisfactory cargo and rate levels and to work towards an equilibrium between supply and demand. What makes this situation even more compelling is the reality that there is a relatively defined and constant market share for which United States-flag carriers compete. Over a ten-year period, the United States-flag share of liner cargo moving in the United States foreign waterborne commerce has remained relatively constant.

The significance of this relatively constant market share is that uncontrolled promotional deregulation will heighten United States-flag carrier competition among themselves in this available market—that is, the market which the United States vessels share has retained. The likely result will be fewer U.S. carriers and fewer job opportunities for U.S. seamen.

To impose deregulation on small carriers operating U.S.-built ships, like Waterman, without some form of rationalization or trade route protection, would penalize those carriers for participating in the programs of the 1936 Act. Mr. Chairman, it is not the 1936 Act which needs fixing, it is the overtonnaging worldwide and primarily in the United States fleets today. We need more competitive ships, but not to compete with each other. A catastrophic shipping rate depression has hurt all operators, but it hurts United States-flag liner operators more because they have many ships with higher capital costs, many with higher fuel costs, and with crew costs higher than their competitors in almost all instances. In a shipping depression, it is unrealistic to expect that simple deregulation will, by itself, stop current financial losses or increase the United States-flag share of the non-cargo preference market.

Mr. Chairman, all of us U.S.-flag operators depend on two cargo markets: one where there is cargo preference, and one where there is not. Unfortunately, as is the case in the non-preference cargo market, there is now overtonnaging in the preference cargo market, and the rates are trending downward. To open up the preference trades to more overtonnaging by eliminating the three-year waiting requirement for foreign-built ships invites more problems.

Other U.S.-flag operators are requesting authority to build abroad, the lifting of trade route restrictions, and other forms of deregulation, for the alleged purpose of flexibility in order to compete to a greater extent with foreign-flag carriers in the foreign commerce of the United States. When this proposition is more closely examined, it becomes obvious that they want to position themselves to receive subsidy for operating cheaper foreign-built ships. The practical effect on Waterman would be to place these companies in competition with Waterman and our American-built ships on our only trade route, for the carriage of preference cargo, and not for the purpose of competing more effectively against foreign carriers for the carriage of commercial cargo. For these reasons, we request that the three-year waiting period for foreign-built ships be continued, thereby insuring that foreign-built, U.S.-flag ships are used in competition with foreign-flag carriers and not in competition for preference cargo which should remain cargo for United States carriers, the purpose for which it was intended.

Mr. Chairman, Waterman is also gravely concerned with uncontrolled operations of foreign-flag feeder vessels. We have had the experience of being on the receiving end of direct competition from rates charged by United States-flag operators of a fleet of free-wheeling foreign-flag feeder vessels. Those rates only covered the feeder vessel's costs, so that the foreign-flag feeders were being used like fighting ships. Not only is the impact of such runaway flag fleets on United States-flag operators destructive in the context of merchant marine policy, but it undercuts the important objectives of maintaining a pool of loyal, competent United States merchant seamen to operate these vessels.

While other operators want to see the end of a few procedural irritations, nothing in the simplification of procedures will change the hard economic facts of competition from lower cost foreign operators, nor will it change the low rates from overtonnaging due to the ill-conceived and ill-advised expansion of world fleets, one example of deregulation being the recent demise of United States Lines. Mr. Chairman, we have consistently communicated these views to all of the parties interested in ODS reform proposals, and we support a compromise if it addresses these issues in language acceptable to Waterman. We stand ready to work with you and the Committee, and with other interested parties, to develop acceptable language.

I have attempted to do this in my own testimony, and we have attached a more detailed discussion concerning each of the five bills that are up today.

Thank you, very much, Mr. Chairman.

[The attachment to the prepared statement of Mr. Hearn may be found at the end of the hearing.]

Mr. Jones. Thank you, Mr. Hearn.

The Chair would observe at this time, right now, on the House Floor, there is a procedural vote. It's Democrats versus Republicans, vice versa, and I anticipate within the next 45 minutes there will be one or two more of these votes. So the Chair is going to announce a recess until 12:45, for 45 minutes, and, hopefully, we will be through over there and come back and finish up in a leisurely fashion.

Thank you, Mr. Hearn.

Mr. HEARN. Thank you, Mr. Chairman.

[Recess.]

Mr. JONES. The Subcommittee will resume this hearing.

When we concluded at 12:00 p.m., Mr. Hearn had just completed his testimony, and so at this time I am happy to recognize Mr. Erik Johnsen of Central Gulf Lines.

STATEMENT OF ERIK F. JOHNSEN, PRESIDENT, CENTRAL GULF LINES, INC.

Mr. JOHNSEN. Thank you, Mr. Chairman.

I would like to join with others here today who have stated that they are very happy that you are conducting these hearings. It is very timely, and we are pleased to be called upon to make our views known to the Committee.

We have filed with the Committee a complete statement, and, in the interest of time, I will try to summarize our points.

Mr. JONES. That will be fine, Mr. Johnsen. You may proceed.

Mr. JOHNSEN. Thank you, sir.

I am pleased to appear before the Subcommittee this morning to present the views of Central Gulf Lines on the various legislative proposals the Committee is considering with reference to reform of the Operating-Differential Subsidy program.

Central Gulf believes these hearings are very important and very timely, especially in light of the findings and conclusions contained in the recent reports of the Commission on Merchant Marine and Defense to the President and to Congress.

Central Gulf's headquarters is in New Orleans. Our company is unsubsidized, meaning that we have not received any Operating-Differential Subsidy payments from the United States in connection with any of our maritime activities.

For a long period of years we successfully operated a fleet of U.S.-flag liner vessels, several of which are presently on charter to the Military Sealift Command (MSC). Through affiliated operations, we engage in significant tug and barge activities on the inland waterways and in coastwise service.

Recently, we constructed two large automobile carriers which are presently utilized to transport automobiles from Japan to the United States and, more recently, from the United States to Japan.

Like the Commission on Merchant Marine and Defense, Mr. Chairman, Central Gulf is deeply concerned about the deteriorating condition of the U.S. merchant marine in general and the U.S. liner fleet in particular. Today, only seven companies have survived, and they employ only 88 ships in their operations. Indeed, during 1986 alone, we witnessed the demise of both U.S. Lines and

Prudential; and, if conditions in the industry do not improve substantially, I fear that additional losses will be unavoidable.

While regulatory reform is currently important, the essential first step, in my opinion, is the establishment of a level Operating-Differential Subsidy playing field for all surviving U.S.-flag liner operators. Plainly, no Federal subsidy program which constantly favors a few U.S.-flag operators to the detriment of other unsubsidized U.S.-flag operators can possibly produce a truly successful, unified U.S. merchant marine.

Consequently, the primary goal of any legislation enacted at this time must be the establishment of a level ODS playing field for all U.S.-flag operators. Fortunately, some of the legislative proposals pending before this Committee appear to be good first steps in that direction. However, none of these proposals as presently drafted would establish a level ODS playing field. Clearly, they all require significant amendments.

The level playing field concept means, of course, that all U.S.-flag liner operators shall be made eligible for participation in the ODS program and that, after a relatively short phase-in, all ODS operators will receive the same subsidy per ship each year.

Currently, subsidized operators receive, roughly, $4 million per ship each year in ODS payments from the Government. Frankly, I believe that those payments could be reduced to around $2.5 million per year per ship.

Consequently, by imposing a reasonable cap on ODS payments per ship per year, and by limiting the number of ships the Government will subsidize for each ODS operator, it would appear that sufficient funds could be realized to provide a level ODS playing field for all surviving U.S.-flag operators. Imposition of such a cap would also make it unnecessary for the Government to become involved in wage and manning scale negotiations between ODS operators and the maritime unions, as the Administration bill before this Committee presently proposes. Labor and management would be able freely to bargain, and the Government's sole responsibility would be the payment of prescribed amounts of subsidy per ship per year.

If Congress ultimately finds it impossible to establish a level ODS playing field on the basis of ODS program economies alone, then, in line with the sense and the spirit of the recent reports of the Commission on Merchant Marine and Defense, Congress must provide a relatively small amount of additional Federal funds for that purpose. This, I believe, is the theory which supports Chairman Jones' H.R. 2462, which provides for a new maritime auxiliary sealift payment to eligible contractors.

If and when sufficient funding is provided to support the establishment of a level ODS playing field, Congress should, I respectfully submit, avoid discriminatorily dividing these surviving U.S.-flag liner operators into different classes, namely contractors and grantees, as the Administration bill provides, or ODS operators and maritime auxiliary sealift operators, as H.R. 2462 suggests. If in actual practice these different classifications are to have substantially different rights and benefits, or if they impose different obligations, the term "level playing field" would be quickly lost.

Once Congress provides a level ODS playing field for all surviving U.S.-flag liner operators, and the presently unsubsidized companies have had sufficient time fully to qualify, then several vitally important regulatory reforms should become promptly effective. These would include authorization for worldwide acquisition of vessels; elimination of the cumbersome section 605(c) hearing process; and the removal of the trade route restrictions for U.S.-flag vessels.

Two additional reforms, however, are vitally necessary, I believe, and that is to include a provision for the domestic operation of subsidized operators and, in this regard, I recommend a provision such as section 5(2) of Chairman Jones' H.R. 3808 legislative proposal.

With reference to foreign-flag operations, an amendment to section 804(b) of the Merchant Marine Act of 1936 should be adopted, pursuant to which the Secretary would likewise be directed to approve the currently unsubsidized operator's foreign-flag affiliations, and to permit future changes in those operations in cases where U.S.-flag companies, or their affiliates, have less than a 50 percent equity interest.

Until Congress provides a level ODS playing field for all surviving U.S.-flag liner operators, I respectfully submit to the Committee that it should not consider piecemeal legislation supported by only some of the surviving liner operators which would allow the supporters of that proposal to do away with their contractual trade route restrictions, cancel their subsidy obligation to operate U.S.-built ships, engage in domestic waterway operations, and operate foreign-flag feeders.

Enactment of this piecemeal approach would make it impossible for Congress ever to enable legislation that would establish a level ODS playing field for all surviving U.S.-flag operators.

If the three largest liner operators gain everything they need or want through that bill, they would never support legislation in the future to establish a level playing field for the other surviving liner operators.

Moreover, without a level playing field, enactment of this self-serving bill at this time would place all of the other U.S.-flag operators in serious jeopardy.

I thank you, Mr. Chairman, and Members of the Committee for affording me the opportunity to present these views, and, as I have said before, I have annexed my complete testimony and have already filed it with the Committee.

Thank you, very much.

[The prepared statement of Mr. Johnsen may be found at the end of the hearing.]

Mr. JONES. Thank you, Mr. Johnsen.

Mr. Lowman.

STATEMENT OF GEORGE F. LOWMAN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, FARRELL LINES, INC.

Mr. LOWMAN. Good afternoon, Mr. Chairman and Members of the Committee.

I am George Lowman. I am the Chairman of Farrell Lines.

Over the past several years, all of us have been struggling to develop legislation to solve the problems of the American merchant marine. Bills are originated in the House and the Senate, and by the Administration, and the carriers; and, thereafter, hearings, conferences, and meetings are scheduled to attempt to work out a compatible consensus. To date, all have died, after much wasted time and effort.

Here we are again to comment on another batch of bills which will probably face the same unsuccessful future.

Why don't we adopt a different tact and make use of the knowledge, abilities, experience, and capacity of our Presidential Commission on Merchant Marine and Defense. The Commission, which is composed of experts in all phases of the maritime industry, with an experienced and well-oriented staff, has researched the merchant marine from every aspect and already published a First Report of Findings of Fact and Conclusions, and a Second Report of Recommendations.

Notwithstanding the protestations of Admiral Holloway, Farrell Lines recommends that this Committee, your Committee, have Congress authorize a resolution directing the Presidential Commission to prepare legislation to reform and develop an American merchant marine industry of which we can be proud. In the Presidential Commission's First Recommendation, it is that the President state a national maritime policy. Enacting legislation proposed by the Commission will establish the national policy.

The Commission knows all the problems and recognizes the constraints—budget, national security, commercial, union, and shipbuilding. It has experts in every area and a fine staff capable of turning out a legislative bill in short order. It needs no more hearings, meetings, or conferences. It has all the historical background and documentation already assembled, and it can provide this Committee with objective, far-reaching legislation which will be in the best interest of the merchant marine and the country.

Thank you very much.

Mr. JONES. Mr. Hearn, you state that the solution to the overtonnaging problem is rationalization.

Would rationalization decrease the size of the merchant marine and decrease our sealift capacity?

Mr. HEARN. I heard the first part of the question, Mr. Chairman. I didn't hear the end of it. Would what increase our capacity?

Mr. JONES. Rationalization——

Mr. HEARN. Yes.

Mr. JONES [continuing]. Decrease the size of the merchant marine and decrease our sealift capacity, would it?

Mr. HEARN. Well, it very well might. If we are overtonnaged, the world overtonnaging is about 25 percent. I certainly feel as though the American-flag tonnage is also overtonnaged. So if we would decrease the size of the fleet, or we would use the fleet when the available cargoes were around to be used. For instance, in our own trade route, when we have more cargo than we can adequately carry, in the past we have chartered ships from other people. Mr. Lowman, sitting on the left, we have used his ships on many occasions. We would be putting ships into the various trades when enough cargo was there, but when the cargo wasn't there, then we would discontinue with what we would consider overtonnaging.

Mr. **Jones**. Mr. Hearn, do you have any long-term corporate plans to replace your existing vessels, and would it be of benefit to you to build these vessels overseas?

Mr. **Hearn**. Well, it would. We are not opposed to building vessels overseas per se, Mr. Chairman. We are opposed to the ships that are built overseas competing with our American-built ships until we have an opportunity to either build ships overseas or until there is an adequate building program in the United States, a building program in the United States which is encouraged so that people would make investments.

We have heard talk this morning about what would be an encouragement, and I think that if there was some of the things that we have suggested—Congresswoman Bentley talked about cargo reservation; we talk about cargo preference—these various types of cargoes were set aside for American-built ships, with little assistance from the Government, maybe in CDS and certainly getting ODS, these people would then invest in building in American shipyards and we would have American ships that were built in America receiving a special or reserved amount of cargo, thereby leaving ships that were built abroad, that are cheaper and built in foreign shipyards, to compete against foreign-flag operators for what Senator Denton says for commercial cargo, but not specifically for preference or reserved cargoes, if we were going to build American and get the ability to fire up our shipyards again and restore the art of building ships. We figure that there would be an incentive for people to build ships if they could depend on carrying cargo, because carrying cargo with the proper rates is how a steamship company makes business, and if they are making money they'll be building wherever they can.

Mr. **Jones**. All right, sir.

Mr. Johnsen, should the existing reform of the ODS program also include bulkers and other "non-liners" such as car carriers in order to increase the size of the U.S. fleet?

Mr. **Johnsen**. Mr. Chairman, you said, should the revised bill include other types of ships such as car carriers?

Mr. **Jones**. Yes, sir; non-liners.

Mr. **Johnsen**. It is my view that the current bill is directed, and rightly so, toward the liner fleet. The question of whether or not we could expand it to automobile carriers and others is a question of budgetary restraints. Obviously, from the point of being completely competitive in the world marketplaces, the American operator has to have some assistance in that regard to be completely competitive, because our costs of operation are higher than all of our foreign competitors. We have not thought of including car carriers in the current—or other types of ships—in the current proposal, simply because it would seem to us that the budgetary restraints would not permit it.

Mr. **Jones**. All right, sir.

Why is it necessary for the Government to ensure that U.S.-flag vessels serve on trade routes between the U.S. and a specific foreign country?

Mr. **Johnsen**. I am sorry, I didn't hear that.

Mr. **Jones**. Why is it necessary for the Government to ensure that U.S.-flag vessels serve on trade routes between the U.S. and a specific foreign country?

Mr. **Johnsen**. In my view, the U.S.-flag vessels should have the right, under this reform, to call on any foreign ports. I don't think that they need be restricted to any specific country. I do think that if this—but I think all of the lines should have equal right, all the lines should have equal subsidy, equal right to call on any countries. I think that the basic issue is, do we need an American merchant marine, and do we need it to be competitive, because if we are continuing to keep us on a restrictive level, none of the operators can compete effectively with their foreign counterparts. We believe that if we give the right tools, as are being put forward in this proposal, that we will be able to more effectively compete and get our costs in line.

Mr. **Hearn**. May I address that question as well, Mr. Chairman?

Mr. **Jones**. You may, sir.

Mr. **Hearn**. The United States Government, I feel, wants to provide service, either strategically, politically, or commercially, to all areas of the world. Our particular trade route, for instance, that we talk about, protection on that route, it's one of the longest in the world. It goes from New York all the way out to Singapore. And the United States Government, I think, felt as though they wanted to have liner service, regular, reliable service coming and going to carry all types of cargoes, preference cargoes as well as commercial cargoes to that area of the world. And, admittedly, there is not enough cargo on any of these trade routes for everybody, or everybody flying an American flag to jump in there and try to provide service. And that's what we try to oppose. We don't think the United States Government wants to, or this Congress, subsidize competing American carriers, competing on the same trade route for the limited amount of cargo. I do think the Government should provide service to the strategic areas of the foreign commerce of the United States.

Once we have deregulation and people only serve the cream areas, and don't provide service to some needed areas, and I think that's why we have what we call trade route restrictions, and we have trade routes provided or limited to various carriers, strategic trade routes—excuse me, I was reaching for a word to insure enough cargo for at least the carrier assigned to a specific trade route.

Mr. **Johnsen**. Mr. Chairman, I hear Mr. Hearn, but I think that history has proven that, if we continue to do something that was done in 1936 in 1988, we will find that it is not in the best interest of the United States and its budget dollar. We need to have a fleet that can compete effectively, and we need to have a fleet that will be able to take care of the opportunities that present themselves. And I respectfully submit that to do that—and I think that these bills that are before your Committee now do address that issue.

Mr. **Jones**. Thank you.

Mr. Lowman, in view of your testimony, I don't know exactly what to ask you. [Laughter.]

It seems like this Committee struck out completely.

Mr. **Lowman**. May I make one comment, Mr. Chairman.

Mr. JONES. Well, if it's kind, you can, yes, sir. Go ahead.

Mr. LOWMAN. Everybody that brings a bill to your Committee has an ax to grind; and, of course, those people that originate it have the sharpest axes, and those that, as your constituents manage to get you to introduce bills either by request or otherwise, likewise have a subjective position.

I like to think that I stand for the merchant marine, the American merchant marine, which you do, which you endorse, which you subscribe to, and which you are trying to strengthen.

The only way to strengthen it is not by a patchwork, Band-Aid approach; it's to do it effectively. And I've been very much impressed with this Presidential Commission. I have read their reports and studied them carefully. And I think that, rather than giving this job of preparing draft legislation to staff members and to lawyers and to individuals who will have to reeducate themselves, become very familiar with many aspects that they don't now know about, you ought to direct this body to give you the work product that you need, and get it done with.

Mr. JONES. You make a very good point, Mr. Lowman, and I, for one, am very enthusiastic about the Commission's work and what they've done, and applaud it heartily. But there is one little gimmick that maybe doesn't meet the eye, that we sitting on this side of the counter, or the table, we constantly have to keep in mind what we can sell, what will sail, dealing with all elements within the maritime industry.

It reminds me of the old story, a governor making a speech said, "Some of my friends over here are against this thing, some of them over here are for this thing, and I'm for my friends." Well, that's a hard way to have to approach the thing.

But that's why I think your suggestion, as worthwhile as it might be, would be very hard for this Committee to adjust to and buy. But, nevertheless, it bears consideration, and I accept it in the spirit in which you offer it.

Mr. LOWMAN. Thank you.

Mr. JONES. Mr. Anderson.

Mr. ANDERSON. Thank you, Mr. Chairman.

Under what conditions would you support the ODS reform proposal put forth by Sea-Land, APL, Crowley, and Lykes?

Mr. JOHNSEN. That is addressed to me?

Mr. ANDERSON. Any one of you.

Mr. JOHNSEN. I am—I already commented in my opening remarks that I am firmly convinced that that is what I would call piecemeal legislation, and, in my judgment, it should not move forward.

Mr. ANDERSON. Well, can you elaborate on some of the areas, if any, where you are in agreement with Sea-Land, APL, Crowley, and Lykes regarding the ODS issue?

Mr. JOHNSEN. I have been led to believe that those companies—and they will be following us on this panel, which I am sure you can ask that question since they have already heard what I said, that our differences are rather narrow as of the moment. It is my understanding that they recognize that there should be a level playing field for all operators.

I am told by my counsel that they probably will put before you a modified proposal. I haven't heard it yet. But, as I say, I have been led to believe that, as a result of their having seen what we have put forward, that the views are rather close, and I hope that is, in fact, the case.

Mr. ANDERSON. Thank you, Mr. Chairman.

Mr. LOWMAN. May I respond to your question further, Mr. Congressman?

Mr. ANDERSON. Surely.

Mr. LOWMAN. Farrell Lines would support subsidy for the three carriers that you describe. Lykes already has. And Sea-Land and APL has, and Crowley and Sea-Land should additionally have some subsidy. We have no problem with that proposed legislation. Our only problem is that an interim period, until such time as deregulation, which their legislation likewise includes, would permit smaller carriers like Waterman and Farrell and Central Gulf to exist until they can get to a position that is more flexible and be able to diversify.

Mr. ANDERSON. I was just kind of curious because I saw the three of you there, two of you are—well, you are not in my area, but all four of the others have holdings in my particular area. So I kind of wondered if there was any regional differences in some of these views. And I suppose that is the reason I asked the question.

Mr. HEARN. Well, I would like to say something, too, if I may, Mr. Chairman.

As I said in my own remarks, we have a fleet of American-built ships. We can't compete against foreign-built ships because our American-built ships are built under the construction subsidy and the naval requirements; they had to be built with steam turbines. So we can't compete with these foreign ships. So we realize that the American shipyards aren't producing any vessels today. We realize that the other carriers who have maybe a more international service than we do need ships to compete for the American commercial cargo. And we don't want to stand in their way of doing that.

The point is that we feel that on our trade route, which we have been serving for 50 years, we couldn't compete with another American-flag subsidized carrier who has a cheaper ship, cheaper capital cost, and cheaper operator to come in and be competing in our area. We have enough trouble competing against foreigners.

So we would say that, if they wanted to get the benefit of the Government passing a law allowing them to build ships away from the United States, not employing American citizens to build this ship, their own ships, and thereby reducing the state of the art to have American shipyards be able to stay modern, then for that opportunity that's given to them, we would ask for some opportunity to keep us whole and to protect us on our trade route.

So we say, that until we have an opportunity financially to be able to get up to steam and build replacement ships the same way that they have, we would like to have trade route protection, the same protection we have now, that no other American-flag carrier receives subsidy to compete on our trade route. We think that that's a fair exchange.

We also feel that, I think this morning Mrs. Bentley spoke about, and some of the other Members, about preference cargo. We feel that if these ships are built abroad, they are being built abroad cheaper to compete with foreign-flag carriers that carry commercial cargo. We say if they want to do that, and they want to be flexible and have all this deregulation to be able to do that, that's fine. We can't do that because we have more expensive American-built ships. We feel the current Cargo Preference Law of 1954 should stay in place, and preference cargo, or Government-impelled cargoes should be reserved for American-built ships. We feel that will encourage people to invest in shipyards and maybe build American ships in those shipyards, if they have that additional incentive.

And the third thing, everybody talks about deregulation. We feel that section 605(c) in some capacity should be kept. That's the section, if I may attempt to refresh your recollection, where if there is a trade route that's not being particularly served by the American carrier that's there, it is subject to a hearing. And it goes before the Maritime Administration to decide whether the trade route is adequately being served and, if it's not, then they'll put another carrier in there for a period of time. We feel as though, if another American-flag carrier that's receiving subsidy is going to compete with another American-flag carrier, that should be subject to some type of an evaluation so that the United States Government isn't paying American-flag carriers to compete against themselves and thereby forced to trade wars.

So I guess our answer would be, we're willing to make various reservations and accommodations to the other larger carriers who want a lot of the deregulation and the ability to build abroad. However, we feel as though we need some present-time protections.

Thank you, very much.

Mr. JOHNSEN. Mr. Chairman, may I make just one comment on that?

Mr. JONES. Yes, Mr. Johnsen.

Mr. JOHNSEN. I think one of the things we have to realize when we are talking about U.S.-built ships versus foreign-built ships is the fact that, for instance, the ships that Mr. Hearn is talking about were built in 1975 or thereabout, we are now in 1988. There is no program available or has it been available to a U.S.-ship owner for some years now, because the U.S. ship construction subsidy has not been in existence for a number of years. So we are looking at operators who are having ships that are getting very old, and here you have two sections of the maritime industry being dependent upon what happens to the shipyards. We are saying we certainly recognize the plight of the shipyards, and that's why I think the Commission came up with a reasonable compromise.

Recognizing the budget constraints, one has to recognize that, if the American owner is to rebuild, they've got to build foreign right now. In your district, I think we have one of our U.S.-flag car carriers hauling and delivering Honda automobiles. We built those ships, got U.S. seamen on board, but we had to build the ship in Japan. The price of a ship like that here would be about three times as much as what we built it for in Japan; it would have been noncompetitive.

So, from that point of view, it is essential to give the American owner that freedom. And to prevent competition, to keep the prices down, I think is something that the Government should not do, and that's what the section 605(c) hearing situation has done for years.

Mr. ANDERSON. Thank you, Mr. Chairman.

Mr. JONES. Mr. Hearn, how do you feel about the trade route protection that I have included in H.R. 2462, the so-called MAST bill?

Mr. HEARN. I have it right here, Mr. Chairman. I just want to quickly get into my notes on that.

I felt that—one of the bills was on domestic, and it was 85 percent and 50 percent of the carriage. Is that the part of 2462? I can't seem to see it in my notes. If I could reserve and offer that in writing, I would appreciate that, Mr. Chairman.

Mr. JONES. All right, Mr. Hearn. No problem.

Mr. HEARN. I'm sorry, I haven't got it at my fingertips right now. We went over—I did think that 2462 by and large was very helpful to us. However, I think it did leave some openings for overtonnaging, which is always one of our problems. But, as we sit here through the other witnesses, I can review my notes and possibly either come back then or offer it to you in writing. Whatever is acceptable to you is O.K. with me.

Mr. JONES. That will be fine, Mr. Hearn. Thank you.

Mr. HEARN. Thank you, Mr. Chairman.

[The material to be supplied follows:]

TRADE ROUTE PROTECTION

H.R. 2462 allows a three-year period, after enactment for all applications for ODS contracts and amendments to existing contracts to be limited to trade routes as provided in rules that are in effect on the date of enactment. After such three-year period, no contracts shall be subject to any geographic restrictions. The Maritime Administration has recently issued a final order reducing the specific individual trade route descriptions outlined in ODS contracts to eight trading areas. We request trade route protection until we have an opportunity to convert from our expensive U.S.-built vessels, which hopefully could be in three years, but if not we would prefer a period extended to the life of our vessels. We also request trade route protection on the trade routes that are outlined in our contracts rather than the larger trading areas that the Maritime Administration has recently provided for in its rule.

Mr. JONES. I thank the panel for appearing and appreciate your interest and your contributions.

Our next panel, number 3.

Mr. W. James Amoss, Jr., Chairman of the Board and Chief Executive Officer of Lykes Brothers; Mr. Leo L. Collar, President and Chief Operating Officer of Crowley Maritime Corporation; Mr. Robert L. Hintz, Chairman of the Board and Chief Executive Officer of Sea-Land Corporation; and Mr. Timothy J. Rhein, President and Chief Operating Officer of American President Lines.

I understand by staff that you will just have one presentation?

Mr. AMOSS. Yes, we do.

Mr. JONES. And that would be you, sir?

Mr. AMOSS. I will make the presentation on behalf of all four, and then we will answer your questions individually.

Mr. JONES. The Chair recognizes you. You may proceed at your pleasure.

STATEMENT OF W. JAMES AMOSS, JR., CHAIRMAN AND CHIEF EXECUTIVE OFFICER, LYKES BROTHERS STEAMSHIP CO., INC.; LEO L. COLLAR, PRESIDENT AND CHIEF OPERATING OFFICER, CROWLEY MARITIME CORP.; ROBERT L. HINTZ, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, SEA-LAND CORP.; AND TIMOTHY J. RHEIN, PRESIDENT AND CHIEF OPERATING OFFICER, AMERICAN PRESIDENT LINES, LTD.

Mr. AMOSS. Thank you, Mr. Chairman.

I am W. James Amoss, Chairman and Chief Executive Officer of Lykes Brothers Steamship Company, and I am joined this morning by Mr. Leo Collar on my right, Mr. Robert Hintz on my left, and Mr. Timothy Rhein of American President Lines on my far left. Mr. Hintz is of Sea-Land Service, Inc. Mr. Collar of Crowley Maritime Inc.

We are pleased to appear before you this morning with a common proposal on behalf of the vast majority of U.S.-flag liner vessels in foreign commerce. The four liner carriers are American President Lines, Crowley Maritime, Lykes Brothers Steamship Company, and Sea-Land Service, Incorporated. Collectively, our companies represent approximately 90 percent of the U.S.-flag liner vessel capacity operating in the foreign commerce of the United States.

U.S.-flag liner operators have worked together for the past few years to develop an ODS proposal to rejuvenate the Merchant Marine Act of 1936 and strengthen the competitiveness of U.S.-flag liner carriers. The policy concept of cost parity, as set forth in the 1936 Act, remains a valid basis for assisting U.S.-flag liner carriers in competition with foreign carriers who employ vessel crews at wages that are but a fraction of U.S. crew costs. However, while the 1936 Act remains basically sound, it requires amendment in light of changed circumstances to provide U.S.-flag liner carriers with a promotional policy that will enable them to compete fairly with foreign liner carriers today.

Foreign liner carriers have increased their dominant share of U.S.-foreign commerce cargoes from 70 percent in 1975 to over 85 percent at present. This dramatic increase in share has occurred despite the billions of dollars of private capital invested by U.S. carriers. Indeed, the innovative technology of containerization and intermodalism continues to be led by Americans despite being governed by an outdated U.S. Government promotional policy. This outdated policy has contributed to the failure of some of the carriers, U.S.-flag carriers, and others remain at risk because of it. With competitive pressures growing, we have intensified our efforts to reach a common U.S. carrier position in order to facilitate legislative action.

At this time, four carriers have preliminarily agreed on an eight-part proposal, subject to agreement on draft legislative which has yet to be developed by us. And we urge that these elements form the basis of a compromise ODS proposal.

First, all U.S.-flag liner vessels, including existing and future vessels, regardless of where acquired, chartered, or built, must be immediately eligible to receive ODS and be immediately eligible to fully compete for carriage of preference cargo. All qualified U.S.-

flag liner carriers would be eligible to participate in the ODS program.

Second, there should be complete trade route deregulation effective immediately upon the date of enactment of ODS legislation. Concurrently, section 605(c) would be repealed, allowing all U.S. liner carriers to compete in any trade in U.S.-foreign commerce, a right, I might add, that every foreign carrier enjoys today. Nonsubsidized U.S.-flag operations in foreign commerce by any U.S.-flag liner carrier would continue to be totally free of any trading restrictions.

Third, section 804 would be repealed as of the date of enactment, and liner carriers participating in the ODS program would no longer be restricted from use of foreign-flag feeder ships, as well as combining foreign-flag line haul vessels, as required in the international marketplace.

Fourth, from the date of enactment, ODS would be paid only on wages and fringes of U.S. crews. Those vessels qualified by contract now to receive non-wage subsidies as of the date of enactment, would continue to be paid those subsidies for the life of those vessels and as long as those vessels are operated by the same operator who is operating them on the date of enactment. ODS would be paid on crew employment costs; that is, wages and fringes, for the full crew complement required by the U.S. Coast Guard, plus a reasonable number of positions required for victualing crew and passengers, for maintenance on certain vessel types, and for unusual crew requirements in certain trades. Existing crew sizes approved by the Secretary of Transportation under existing contracts will not have to be reapproved after the date of enactment.

Fifth, currently subsidized liner carriers would continue to receive subsidy on the number of vessels or sailings authorized under existing contracts. U.S.-flag liner carriers not receiving subsidy at present would be eligible to receive ODS on the number of U.S.-flag liner vessels in common carrier service in foreign commerce on the date of enactment, up to a maximum of 23 vessels. All carriers could increase their ODS vessel numbers by application to the Maritime Administration.

Sixth, all ODS contracts, existing as well as new, will be entitlements with equal stature as inviolate contracts. All contracts would have a common expiration date ten years from the date of enactment.

Seventh, all existing U.S.-flag liner vessels over 20 years old, but under 25 years old on March 1, 1988, would receive a statutory extension of life for ODS purposes of two additional years. Such statutory extension by two years would be contingent upon continued satisfaction of U.S. Coast Guard certification requirements. The two-year extension would apply only to vessels remaining with the same operator as on March 1, 1988. MARAD would retain its existing discretionary authority to grant extensions beyond 25 years of vessel life.

Mr. JONES. Mr. Amoss.

Mr. AMOSS. Yes, sir.

Mr. JONES. I apologize for interrupting you, but we have a recorded vote, and there might be one right next to this. So we will take a brief recess and return in 15 or 20 minutes, whenever we can.

The Committee stands in recess.

[Recess.]

Mr. JONES. The Subcommittee will come to order, please.

When we recessed, Mr. Amoss was giving his testimony, and we are ready to proceed.

Mr. AMOSS. I will proceed, Mr. Chairman. I know everybody knows exactly where we were. We were at number eight.

Eighth, as to domestic services, section 805, where applicable, would be amended along the lines of a compromise developed last year with domestic carriers. The legislative language would be similar to section 5 of H.R. 3808.

The amended section 805 would no longer apply to the extent a vessel built without CDS and operating without ODS is operated exclusively in domestic trades. This includes a vessel built with CDS, but in excess of 25 years of age. This operating freedom would apply to Alaska, Hawaii, Puerto Rico, inland waterways, and coastwise voyages. This operating freedom would also apply to Guam for vessels not calling at foreign ports, and no administrative hearing or approval process would apply there for such vessel operations.

For mixed services in the Hawaii domestic trade, any operator would have to obtain approval under an amended section 805 in order to serve Hawaii with its vessels, even where the Hawaii service vessels did not receive ODS. Also for mixed services in the Hawaii domestic trade, any operator applying for ODS, serving Hawaii, and desiring to continue serving Hawaii upon becoming a subsidized operator, would have to obtain approval under an amended section 805, even if the vessels in the Hawaii service forgo all ODS, before any award or payment of subsidy can be made to that operator.

For mixed services in domestic trades other than Hawaii, where a vessel serving the domestic trade forgoes ODS on its entire voyage in foreign trade, then it could serve the domestic trade without an ODS hearing. If, however, a foreign commerce carrier seeks ODS for the vessel in the domestic trade except Alaska, it would need to win approval under an amended section 805 or, in the case of Guam, other administrative process. In the Alaska domestic trade, existing law barring ODS and CDS vessels would continue to apply. Domestic cargo would only be transported by vessels built in the United States operating without ODS and CDS. ODS would only be possible for vessels providing domestic service if those vessels are engaged in "mixed services," which would be defined, for purposes of service to Hawaii as well as a service calling at a domestic and foreign port as part of a voyage in foreign commerce under section 506 of the 1936 Act.

Also, any 805 approval or Guam service approval received prior to enactment of the legislation would remain in effect to the extent previously approved.

Commenting generally on the bills before you today, in order for us as a group to uniformly support any one of them, amendments would be necessary. We cannot support a bill that arbitrarily limits the size and growth of the merchant marine. Making new contracts subject to the annual appropriations process would be untenable and make capital formation impossible.

We urge that the Subcommittee base an effective amendment of the 1936 Act on the above eight elements. It is a carefully balanced, interrelated package of improvements to the 1936 Act. The companies are continuing to work to refine these elements. We remain anxious to work with the Congress and the Administration to achieve badly needed and long-overdue changes in the program.

And we would be pleased to respond to any questions. We appreciate the opportunity to present our views to you.

Thank you.

Mr. JONES. Thank you, Mr. Amoss, very much, and I want to thank the entire panel for your presence here today. I have one or two short questions; I hope they are short, at least.

On page 2 of your statement, you indicate that this is a preliminary agreement, subject to an agreement on legislative language. And some would say that that sounds very tentative.

Is this a firm agreement, and when will you have your legislative language to us?

Mr. AMOSS. Mr. Chairman, it is a firm agreement as to the positions outlined in the eight elements. We have not put those into legislative language. We, indeed, believe that there are probably some additional matters that might be included in a piece of legislation, and I don't mean to indicate that there is a hidden agenda there. These are the important elements. But we just haven't had the time to do all of that, and we make that clear to you at this point.

Mr. JONES. Along that line, your testimony calls for a broader program than H.R. 3808, which was introduced at the request of Sea-Land, Lykes, and APL less than three months ago. Now, what has changed in the last three months?

Mr. AMOSS. Well, H.R. 3808 was a bill that was crafted by three carriers at a time when the process of maritime legislation and amendment to the 1936 Act appeared to have slowed and interest in the Administration appeared to be very much restricted, and we were trying to put down a bill that would accomplish some needed reform without affecting cost.

So, if you look at 3808, that's the sense that it was crafted in. Now, I think there is a new sense of urgency about the merchant marine. I think it is very accurately recognized by this Committee through the inclusion as the number one witnesses this morning, the gentlemen from the Commission on Merchant Marine and Defense. We think that it is compelling that something be done beyond what we were attempting to do in what seemed like a realistic assessment of the possibilities when we wrote 3808.

Does anybody else have any comment on that?

Mr. JONES. The Administration opposes the granting of new ODS contracts, and H.R. 3808 does not require the Secretary of Transportation to enter into a subsidy contract with subsidy operators.

If this approach is adopted, couldn't you end up with subsidized operators winning build-foreign authority and Sea-Land still locked out of the subsidy program?

Mr. AMOSS. Well, 3808, which was a bill put together by both subsidized and unsubsidized operators, recognizing, as I just said, that perhaps the piecemeal approach of obtaining some of the basic approvals that would be needed to bring new operators who had not been subsidized was necessary and about as far as we could expect legislation to go. There was never—and you can well imagine that in a coalition of the three carriers who were on that bill, one of whom was unsubsidized, there was never an intent to merely go that far, but, rather, to go further and clear the way for the possibility of subsidy for unsubsidized American-flag operators when the climate was right. Perhaps that is now.

Mr. JONES. Thank you, sir.

Mr. Anderson, do you have any questions?

Mr. ANDERSON. First, I want to welcome all four of the witnesses because I have some of your ships on my porch. As a matter of fact, in my office I have a magazine where Leo is right on the front page.

First, how much support do you have from maritime labor for your ODS reform proposal?

Mr. COLLAR. Congressman, we really have not gone that far yet to work with the labor organizations that either one of us, any one of us at this panel today are involved with. We first were trying to straighten out between us what we could live with.

Mr. ANDERSON. That's not easy.

Mr. COLLAR. No, it isn't easy, I've got to tell you that.

And that would be the next thing that we would be doing, working with labor to see if we can get some sort of support for them.

Mr. ANDERSON. Now, in your proposal, you state that U.S.-flag liner carriers not receiving subsidy at present would be eligible to receive ODS on the number of U.S.-flag liner vessels in common carrier service in the foreign commerce. However, you limit that number of vessels to 23.

Can you explain how you came up with that number?

Mr. COLLAR. Basically, we took the numbers that the four of us have, plus other people that are in the liner service in active service today, and balanced that against the present budget so that we could tell whether or not we would have to be—whether the budget would have to be substantially changed in order to fund such a project. And we came to the agreement that 23 was the right number that we could all live with.

Mr. ANDERSON. I had no argument with it. I just wondered why it was 23 instead of 27 or something.

Mr. COLLAR. It just happened to be the right number that all of us could live with.

Mr. ANDERSON. What is the easiest thing for a subsidized operator to sacrifice with regards to ODS coverage? Is it fringe benefits, insurance, maintenance and repair, or something else? And I suppose that I may not get one answer on this question because there may be some differences of opinion among you in the answer to that question.

Mr. COLLAR. Well, from our standpoint, from Crowley's standpoint, we are looking at wages and fringes as the only thing that we would be expecting to get in the way of subsidy. Now, that could be different for, certainly for those that are already subsidized. I don't know about Sea-Land because they're a little bit like we are, unsubsidized at the present time.

Mr. **Amoss**. Congressman Anderson, I would like to give you another view on that. While we generally do support that very provision that is in the requirement, we have a number of vessels that are approaching 20 years of age that were built at a time when the entire technology of the engine room and the configuration of the ship in terms of machinery on deck, and things of that sort, and, also, in terms of coatings and preservation that were incorporated in the ship, required a huge amount of maintenance. And those ships carry big crews because of it, and they have a heavy maintenance schedule which runs well beyond what a new ship would have.

So, for us, it is a real sacrifice as long as we have those ships in our fleet, and I might add that, as quickly as we can move to the tonnage we want to, and that will bring savings to the subsidy program because of reduced manning, and at that point we are quite prepared to do without the maintenance and repair. Although, I think this Committee should recognize that, in the Merchant Marine Act, the issue of parity was one of the foundations of the Act. Now, what you are really asking us to do is to subsidize the U.S. repair industry without getting any offset to that. All of our competitors repair their vessels in very much cheaper foreign repair yards, some in Asia, some in the Mediterranean, and we are restricted from doing that.

Nevertheless, in the compromise that we have to make, we are prepared to do that, but we can't do it on the older vessels that have the kind of technology that imposes heavy maintenance on them. So that provision is in our points here. We hope you keep it in mind.

Mr. **Anderson**. My last question: One of the points under your proposal is that liners receiving ODS should no longer be restricted from employing foreign-flag line feeder vessels or foreign-flag line haul vessels. I can possibly understand your need for foreign-flag feeder vessels. However, why do you need foreign-flag line haul vessels as well?

Mr. **Collar**. We are operating at the present time, being an unsubsidized carrier, in our present services, Far East and some of our Caribbean and South American services, we are using foreign-flag liner vessels, chartered liner vessels. We are not talking about them being subsidized, of course, but from our standpoint it would be very difficult for us to be able to replace those vessels in the situation that we have.

Mr. **Anderson**. Thank you, Mr. Chairman.

Mr. **Jones**. Mrs. Bentley.

Mrs. **Bentley**. Thank you, Mr. Chairman.

Good afternoon, gentlemen. It is nice to see you all again.

This morning, Mr. Anderson was asking the question about the difference in cost between operation of subsidized and unsubsidized vessels. Now, we have two unsubsidized operators there and two subsidized.

Can any one of you give me an idea on your cost? I am not talking about the old ships adjoining Mr. Anderson. On the new ships, how much difference is there at this point?

Mr. **Rhein**. Thank you, Mrs. Bentley.

I think the best comparison, and I'll ask Mr. Hintz to follow me, if he likes, is between the newer APL ships and the newer Sea-Land ships. And our analysis indicates that the costs are roughly the same, with the same number of crews, 21-man crews, a high-speed diesel, very large container ships.

Mr. **Hintz**. I would support Mr. Rhein. I really don't have any numbers or have really taken a good look at that. But I would not understand why the numbers would be dramatically different.

Mrs. **Bentley**. My recollection is that in the old days, when there was a substantial difference in the manning, that on the ships there was a big difference then. I am glad to hear that today they are so close together.

Mr. **Hintz**. I recently looked at a list of numbers based on some of our older vessels and our newer vessels, and I think among the older vessels there is a big disparity, because of the crew and the fuel capacity and consumption. But I would think on the more modern ships that that is probably not true.

Mrs. **Bentley**. Do you, the two of you, have the same union groups, or different union groups?

Mr. **Rhein**. We certainly don't.

Mrs. **Bentley**. Mr. Amoss, how will the cargo preference features in the Administration bill affect liner carriers?

Mr. **Amoss**. Drastically, in the case of those liner carriers who are not in the Trans-Pacific and the Trans-Atlantic trades, because—and even those carriers for different reasons. The Administration proposes that subsidy be paid back if Government cargo, military or AID cargo, is carried in American-flag subsidized vessels. And the fact is that in most of the trades to undeveloped countries, the only cargo that's moving from the United States is U.S.-sponsored, financed, or given cargoes. The vessels are operated in those trades at very little margin. Many people have gone broke in those trades. And the answer to that question is that the rates would have to skyrocket over what they are now, which would bring howls from agriculture and AID and others if the subsidy were removed. It's just that nobody is—and certainly the results which are known to MARAD and everyone else have got to prove that—nobody's making much money in any of these trades.

So that is just the Administration's way of trying to get something back that literally would crush the services that are offered to Africa, India, some parts of South America, or in some parts of Southeast Asia. And I think it deserves to be stricken from any bill.

In the developed trades, the military cargo has been bid on a six-month cycle, and rates are generally far cheaper than the commercial rates, so much so that rates in the area of $2 a ton have been noted in the press and elsewhere in these bids. And that is simply the effect of putting military cargo out to bid on a winner-take-all basis when what everybody needs is to get a share that has created this. Now imagine giving subsidy back when you have that kind of circumstance.

So those are the feelings, I believe, of all of the lines on that particular issue.

Mr. **Anderson**. Will the Gentlelady yield a minute?

Mrs. **Bentley**. Yes.

Mr. **Anderson**. On the question that you gave me credit for awhile ago, that I asked earlier on the difference between subsidized and unsubsidized, this is a little article that is in our own staff memorandum [see end of hearing record] here, and it says, "Critics also argue that unsubsidized operations have lower costs. For example, at a Subcommittee hearing in 1986, a witness testified that on a United States Government-subsidized cargo vessel an able-bodied seaman made $5,962—but that on an unsubsidized U.S.-flag car carrier the wage package was $3,607"—which was over $2,000 less—"(lower than the wages on a Japanese ship which amount to $3,798). Critics also point to the six-month vacation period on subsidized vessels as contrasted with three-month vacations on unsubsidized and foreign-flag vessels."

I believe this was Frank Drozak who made this point. I realize this was a couple years ago. But we do, and I've got it before from people in the shipping business, not labor, giving me the same thing. But we just happened to have this in our own record here. So I wanted to give that to you, Mrs. Bentley.

Mrs. **Bentley**. This was in 1986, and we had a U.S.-flag car carrier then?

Let me ask the gentlemen: Do you have any idea what the wages, the earnings of an able-bodied seaman is on your ship, Mr. Rhein, and yours, Mr. Hintz, now?

Mr. **Rhein**. I can't give you a specific answer.

Mrs. **Bentley**. Could you supply it for the record?

Mr. **Rhein**. Oh, absolutely.

Mrs. **Bentley**. I would like that.

[The material follows:]

CREW COSTS

Sea-Land: On the large, automated U.S.-flag containerships operating with a crew of 21 in the Atlantic and Pacific Oceans, Sea-Land's crew cost is about $2.7 million per ship per year.

We believe that wages paid to seamen on newer APL and Sea-Land vessels are similar. However, it is difficult to make an exact comparison because wage rates are keyed to vessel size and horsepower and the two companies' vessels are not identical. In this regard, it is not like two different airlines operating the same Boeing jet. We are still determining how to make the appropriate adjustment so that the Committee can compare apples and apples.

Mrs. **Bentley**. You know, one of the problems that I have in your statement, Mr. Amoss, and of your group—and I understand where you are coming from and I think you understand where I am coming from. When you are envisioning worldwide acquisition of vessels, you are, of course, talking about building foreign.

Is the build-foreign authority the only issue that the four of you can agree on in the context of an ODS reform bill?

Mr. **Amoss**. Did you say, is it the only issue——

Mrs. **Bentley**. Yes.

Mr. **Amoss** [continuing]. We can agree on?

Mrs. **Bentley**. Yes.

Mr. **Amoss**. Well, no. We have given eight other issues here. I don't believe you were here.

Mrs. **Bentley**. I wasn't here for the whole thing.

Mr. AMOSS. We've got—I think you will be very surprised at the issues that we have agreed on, the four of us here, two unsubsidized, two subsidized, and I hope you'll be pleased about that.

Mrs. BENTLEY. How do you think we can tackle or get around this worldwide acquisition? Because, you know, we are going to have to face the Shipbuilders Council.

Mr. AMOSS. I understand that. And, you know, there's nothing that——

Mrs. BENTLEY. And I have a shipyard. [Laughter.]

Mr. AMOSS. I understand that. Everybody's got a shipyard, and we know that.

You know, if you'd just get this Administration to accept CDS, give them a subsidy, and we'll build our ships in U.S. yards. But you've got to understand that the carriers, such as my own company, who have not been able to build a ship under any kind of a program within the context of U.S. shipyards, for eight years now, and who have large numbers of ships they desire to replace, are in a desperate situation. It takes two to three years to build a ship in the best foreign yards, and by the time you get the financing and you make your plans, you could call that four. And some of us have ships that are over 20 years old and, indeed, our whole company will fall apart in four or five years. We are at the end of the rope. This is a—perhaps it can be a trade-off for a short period, but we've got to be able to start getting ships in or we won't be able to employ seamen, we won't be able to have a service, we'll be out of business and, once more, the American merchant marine will be reduced.

So if you've got a better plan, please come forward with it. We'd be pleased to build ships in U.S. yards, if we got them at a competitive price. But bear in mind, if we have to bear the extra cost of repairing our ships in U.S. yards and subsidize that operation, we can't take the four times, or three-and-a-half times cost of capital investment in the ships.

Mrs. BENTLEY. What has ever happened with the United Nations Conference on Trade and Development (UNCTAD) Code, the 40–40–20? Are any of the countries practicing that today?

Mr. AMOSS. Some of the underdeveloped countries are practicing it.

Mrs. BENTLEY. Any of the developed countries at all?

Mr. AMOSS. No. And, in fact, it doesn't apply to developed countries. The Organization for Economic Cooperation and Development (OECD) countries are not bound by the UNCTAD Code.

Mrs. BENTLEY. They have initially accepted it, or have approved it?

Mr. AMOSS. Oh, yes, they signed it. But it only applied to trades with underdeveloped countries. So——

Mrs. BENTLEY. Is the trade between undeveloped and the OECD countries, is that under the UNCTAD Code?

Mr. AMOSS. That's where the UNCTAD Code is being applied, and in cases where the United States is not a signatory, it's being applied unilaterally by countries in reserving cargo for their own ships, and we're just not in a position to do much about it.

Mrs. BENTLEY. Are there any requirements——

Mr. AMOSS. There's a comment on the UNCTAD Code.

Mr. RHEIN. I would just like to add to what Mr. Amoss said, Mrs. Bentley. He is correct in that none of the major trading countries that we deal with are imposing the UNCTAD Code officially. But it is very clear, particularly in our trade, which is in the Asian trade, that unofficially the UNCTAD Code is being imposed rather dramatically in support of national-flag carriers.

Mrs. BENTLEY. Is being imposed?

Mr. RHEIN. Yes, ma'am. Particularly Japan, Korea.

Mrs. BENTLEY. Japan to where?

Mr. RHEIN. The U.S.

Mrs. BENTLEY. To the U.S. Is that because of the UNCTAD Code, or is that just because of the way Japan does business?

Mr. RHEIN. Well, that is what I'm saying. They don't—they have not signed the UNCTAD Code, as far as I know. Yet, they are imposing it.

Mrs. BENTLEY. They have initially approved the UNCTAD Code, though?

Mr. RHEIN. Correct.

Mrs. BENTLEY. But they do the CNF and the FOB business?

Mr. RHEIN. That is correct.

Mrs. BENTLEY. And that's they have their own TAD Code.

Mr. RHEIN. And Korea is learning very rapidly how to do that, as well, and Taiwan, and other countries. So, despite the fact the UNCTAD Code may appear to be dead, it's very, very much alive in spirit.

Mrs. BENTLEY. So one of the ways that we could get around our CDS shortage, et cetera, would be to develop some sort of a "UNCTAD Code" of the percentage of cargo that our ship should carry?

I'm throwing it out.

Mr. RHEIN. Well, I think that that would be one way of pushing cargo toward the American carrier, but if tied to that would be building of ships in a U.S. yard without any further subsidy, I think that, while you may be creating more shipbuilding, and certainly supporting the American carrier, the American consumer would be the one that would suffer. And I am not sure that is the goal of what we're trying to do, because the cost would be outrageously high.

Mrs. BENTLEY. Well, supposing it was mandated that U.S. ships had to carry 20 percent of all cargoes moving in and out, would the rates—would the freight rates be outrageously high? Why?

I mean, you're in conferences, you operate in conferences.

Mr. RHEIN. I think it depends on where the ships are built and whether they have an American crew with subsidy, or not. The freight rates, internationally, are set by the majority, and the majority clearly is foreign.

Mrs. BENTLEY. Today?

Mr. RHEIN. Today. Eighty-five percent, a very overwhelming majority. And to the extent that we have higher costs, we can't recoup that in freight rates by ourselves. We have to compete at market rates. So, therefore, the only way that an American carrier can really effectively compete is with ships built today in a foreign yard, and with crews that are equalized in the terms of an ODS against the foreign crew. Because it's the foreigners that are setting the price, not the Americans.

Mrs. **Bentley**. How do your rates compare today, in the Pacific, versus 1980?

Mr. **Rhein**. The rates today are probably 15 to 20 percent lower.

Mrs. **Bentley**. Than 1980?

Mr. **Rhein**. Correct.

Mrs. **Bentley**. Is that because the foreigners have set them that low? Their costs have been going up, too.

Mr. **Rhein**. That is correct, Mrs. Bentley. Their costs have been going up, but, at the same time, they have been introducing much more efficient tonnage and their share of the trade is going dramatically up. In 1980, there were, I believe, four or five American carriers in the Pacific. They had a market share of in excess of 30 percent. Today, there are two, APL and Sea-Land, with a market share that barely comes to 20 percent. And we have the largest and probably most cost-effective; I mean, our ships are as cost-effective as theirs. It is just that we have been unable to keep up with the growth of national-flag carriers, particularly from the newly industrialized countries in Asia. In 1980, there was a much broader competitive base with European carriers and American carriers in that trade. Today, it's 85 percent Asian.

Mr. **Amoss**. Mrs. Bentley?

Mrs. **Bentley**. Yes.

Mr. **Amoss**. I would like to make a comment on that, having been late of that trade.

I think you may have noticed that, in the press, that virtually every Japanese liner company has posted very extensive losses, both last year and this year, in their liner operations. Some of the big ones, like NYK and Matsui OSK, have made it up on other things, in the bulk field, in the car carrier field, and in shipbuilding and in other elements of their operation. But their liner operations have been losing very heavily.

So, what I am saying, is that the introduction of all this tonnage into the Pacific hasn't been a very happy experience for anybody, and the rates really need to come up for all of them.

Mrs. **Bentley**. Well, if they're losing that much money and they're setting the rates, it doesn't make sense, does it?

Mr. **Amoss**. Well, competition is setting the rates. You've got carriers from Taiwan, you've got carriers from Hong Kong——

Mrs. **Bentley**. Do the Taiwanese belong to the conferences?

Mr. **Amoss**. They have, and they have been in and out. Evergreen has been in conferences and has gotten out. And they're in some conferences now. Orient Overseas, which runs both Taiwan flag and Hong Kong flag, is in conferences, as are a number of others. NOL of Singapore, and the Koreans, and the Japanese.

Mrs. **Bentley**. And some of the others are just running as independents?

Mr. **Amoss**. There are some independents that are running there; and, truly, with service contracts and independent action, you don't find the vast differences between conference and independent operations that you used to. In many cases, the conference carrier is carrying cargo at rates below what the non-conference is carrying.

Mrs. **Bentley**. I'll ask one other question, and then I would like to submit some questions for the record, Mr. Chairman.

I understand that the Shipbuilders Council is considering recommending a legislative proposal that would result in two U.S. fleets, a U.S.-built fleet to haul Government-impelled cargoes, and a foreign-built fleet to operate in the foreign commerce of the U.S., competing with other foreign vessels. What would be your reaction to that proposal?

Mr. **Amoss**. A lot of us would have to look at the investments we have made and figure out how we are going to reposition those ships, and write-off perhaps the losses that would occur the day that that's enacted. I think some of us could adapt to it. Those who need new ships might build ships just for the Government trades. But it certainly is a destruction of the idea that the merchant marine is built to serve the interests of the United States, its strategic and defense interests as a whole, and if you've got two fleets and one is exempted from carrying Government cargo, it's a very odd kind of an operation, particularly in those trades where you have almost a 50–50 mix of Government cargo and commercial cargo. You don't split ships in half very well, and you don't run them 50 percent full very well. So I don't know how that could really work.

It sounds like a very simplistic idea. I'm all in favor of trying to help the shipbuilders as long as it doesn't crush the ship operators in order to do so.

Mr. **Rhein**. Mrs. Bentley?

Mrs. **Bentley**. Yes, sir.

Mr. **Rhein**. I would like to add another comment to what Mr. Amoss has said.

One of the purposes, or I guess the main purpose of the ODS program, as you go back to its infancy and evolution, was to support the availability of American crews for defense purposes. And we haven't done a very good job, as we are all aware, on that. And that's the main reason that ODS contracts were offered, if I recall. If you remove the U.S. preference cargo from that equation, there is really little reason for any of us to operate with an American crew. It would be just as easy, if you are not going to get the benefit of the U.S. flag, to operate a foreign ship with a foreign crew.

Mrs. **Bentley**. What you are saying, in essence, is what I was referring to this morning on the industrialized base, not having the skilled people going into the shoreside industries, and you're saying the same thing applies to the seagoing industry.

What percentage of the total commerce of the U.S. is now carried on American bottoms? Does anybody know offhand?

Mr. **Rhein**. Of the total commerce of the U.S.? I believe it's about four percent.

Mrs. **Bentley**. About four? So we've dropped about two percent over the last decade.

Mr. **Rhein**. I think that's correct, but most of that I think is in the bulk trades.

Mrs. **Bentley**. I will make it a point to read your statement very thoroughly. There is a lot of information that I'm sure I want to digest. I'm sorry, it's just been one of those wild days.

Thank you again for coming.

Mr. **Jones**. Gentlemen, thank you very much for your presence here this afternoon.

And with that, that concludes the Subcommittee hearing.

[Whereupon, at 2:37 p.m., the Subcommittee was adjourned.]

[The following was received for the record:]

I

100TH CONGRESS
1ST SESSION

H. R. 1088

To amend the Merchant Marine Act, 1936.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1987

Mr. BIAGGI introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

---

A BILL

To amend the Merchant Marine Act, 1936.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Merchant Marine Equity Act".

SEC. 2. Title IV of the Merchant Marine Act, 1936 (46 App. U.S.C. 1141–1144) is amended to read as follows:

"SEC. 401. (a) For purposes of this section, the term 'privately-owned United States-flag commercial vessel' has the same meaning given that term in section 901 of this Act.

"(b) The United States Postal Service shall use a privately-owned United States-flag commercial vessel whenever the Service arranges the transportation of mail by ocean carrier to the extent a vessel is available at fair and reasonable rates. The Secretary of Transportation shall determine fair and reasonable rates and may consider the rates charged by a documented vessel for the carriage of comparable cargo for private persons.

"(c) The Service may use a vessel other than a privately-owned United States-flag commercial vessel if a privately-owned United States-flag commercial vessel is not available or if the service provided by operators of privately-owned United States-flag commercial vessels is not adequate to meet the needs of the Service.

"(d) The Service shall award contracts to transport mail on the basis of competitive bidding among operators of privately-owned United States-flag commercial vessels.".

SEC. 3. Title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171 et seq.) is amended as follows:

(1) Section 601(a) is amended to read as follows:

"SEC. 601. (a)(1) The Secretary of Transportation shall consider the application of any citizen of the United States for financial aid provided under this title.

"(2) The Secretary of Transportation shall approve an application made under paragraph (1) of this subsection only if—

"(A) the applicant owns or leases, or can and will build, purchase, or lease, a vessel of the size, type, and speed, and with the equipment necessary for the vessel to meet competitive conditions; and

"(B) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to conduct the proposed operations of the vessel to meet competitive conditions.

"(3) The Secretary of Transportation shall take into account the financial assistance required by section 603 in determining whether an applicant can meet competitive conditions.".

(2) Section 602 is amended to read as follows:

"Sec. 602. The Secretary of Transportation may not enter into an operating-differential subsidy contract for the operation of a bulk vessel to meet foreign competition, except direct foreign-flag competition, unless the Secretary determines after a full and complete investigation and hearing that ODS is necessary to meet competition of foreign-flag ships.".

(3) Section 603 is amended to read as follows:

"Sec. 603. (a) The Secretary of Transportation may enter into a contract with an applicant for the payment of operating-differential subsidy for the operation of a vessel in an essential bulk cargo-carrying service described in section 211(b) of this Act. The Secretary may pay any amounts the Secretary determines are necessary to make the cost of operating that vessel competitive with the cost of operating similar foreign-flag vessels.

"(b)(1) The Secretary shall enter into a contract to pay operating-differential subsidy for a vessel (except a bulk vessel) owned or chartered by a citizen of the United States only if the vessel—

"(A) is engaged in foreign commerce (including foreign-to-foreign trade);

"(B) is suitable for national defense purposes;

"(C) is documented under chapter 121 of title 46, United States Code;

"(D) is owned or chartered and operated during the term of the contract by a citizen of the United States;

"(E) is at least five thousand deadweight tons; and

"(F) is less than twenty-five years of age.

"(2) Until January 1, 1992, the Secretary of Transportation may pay operating-differential subsidy for the operation of a vessel that is twenty-five years of age or greater before January 1, 1992 and owned by a citizen of the United States on January 1, 1987.

"(3) The Secretary of Transportation may enter into a contract to pay operating-differential subsidy for a foreign-flag feeder vessel of an operator receiving operating-differential subsidy if—

"(A) the vessel meets the requirements of subsection (b)(1) of this section, except subparagraph (C);

"(B) the goods transported on that vessel are transported under a bill of lading or contract of affreightment that provides for transportation of those goods on a subsidized documented vessel; and

"(C) the operating-differential subsidy contract provides that the vessel will be made available to the United States Government in time of war or national emergency.

"(4) All contracts entered into by the Secretary under this subsection expire on September 30, 1998. The Secretary may renew the contract for a period not to exceed ten years.

"(c) The Secretary of Transportation shall pay operating-differential subsidy on an eligible vessel for the difference between subsidizable wages of United States crew members and crew members on foreign-flag vessels that are substantial competitors of the vessel covered by the contract.

"(1) The Secretary may not pay costs relating to crew members that the Secretary has found, prior to the award of a contract for the construction or reconstruction of a vessel, to be unnecessary for the efficient and economical operation of the vessel. In determining the number of crew members necessary for the efficient and economical operation of a vessel, the Secretary shall provide representatives of collective-bargaining units responsible for the manning of the vessel an opportunity to comment on a proposed finding of lack of necessity. The Secretary shall give due consideration to wage and manning scales and working conditions required by a bona fide collective-bargaining agreement.

"(2) The Secretary shall determine the subsidizable wage costs on subsidized vessels as of each January 1, and shall establish a new base period cost, at intervals of not less than two years nor more than four years. The Secretary, in establishing a new base period, shall provide public notice prior to December 31, of the new base period.

"(3) The Bureau of Labor Statistics shall compile an index of collective-bargaining costs reflecting the average annual change in wages and benefits for employees covered by collective-bargaining agreements with equal weight given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and to changes affecting employees in private nonagricultural industries other than transportation. The index shall be based on the materials regularly used by the Bureau of labor Statistics in compiling its regularly published statistical series on wage and benefit changes arrived at through collective bargaining. These materials shall remain confidential and may not be disclosed.

"(4) The subsidizable wage costs in a base period shall equal the average of the collective-bargaining costs as of January 1 of the base period and the subsidizable wage costs of the previous base period indexed to January 1 of the new base period by the index described in paragraph (3) of this subsection. If the subsidizable wage costs determined under the above formula are less than the minimum percent of collective-bargaining costs set forth below, the operator is entitled to receive an amount equal to the minimum percent of collective-bargaining costs. If the subsidizable wage costs determined under the above formula are greater than the maximum percent of collective-bargaining costs set forth below, the operator is entitled to receive an amount equal to the maximum percent of collective-bargaining costs.

BASE PERIOD

Base period	Minimum percent	Maximum percent
2-year	97½	102½
3-year	96¼	103¾
4-year	95	105

Subsidizable wage costs in any fiscal period other than the base period shall equal the most recent base period subsidizable wage costs, increased or decreased by the change from January 1 of the previous period to January 1 of the non-base period by the index described in paragraph (3) of this subsection. The subsidizable wage costs may not be less than 90 per centum nor more than 110 per centum of the collective-bargaining costs as of January 1 of that period.

"(5) For purposes of this section, 'collective-bargaining costs' means the annual wages and benefits resulting from a collective-bargaining or other agreement covering the crew of a vessel. The term does not include subsistence of officers and crews on vessels other than passenger vessels and costs relating to crew that the Secretary has found, prior to the award of a contract for the construction or reconstruction of a vessel, to be unnecessary for the efficient and economical operation of the vessel.

"(6) In making a foreign wage cost computation, the Secretary shall consider all relevant matters presented by a contractor and any other appropriate information. The foreign cost data may be made available to an interested contractor, unless the Secretary finds that disclosure of the data will prevent future data collections. The foreign manning determined for any ship type with respect to any base period may not be redetermined until the beginning of a new base period.

"(7) The Secretary shall pay the wage subsidy monthly for voyages completed during the month on a contractor's certification that the subsidized vessels were in authorized service during the month. The Secretary shall prescribe procedures to calculate and pay subsidy on items of expense included in collective-bargaining costs but not reflected in the daily rate because they are unpredictably timed.

"(d) All operating-differential subsidy contracts are legal obligations of the United States. Neither the obligation of the Secretary of Transportation to enter into an operating-differential subsidy contract nor the payment of funds under an operating-differential subsidy contract shall be limited by the amounts authorized or appropriated by law.".

(4) Section 604 is amended to read a follows:

"Sec. 604. (a) If the Secretary of Transportation finds, after consultation with the Secretary of State, that the amounts of subsidy granted under this title is inadequate to offset the effect of governmental aid paid to foreign competitors, the Secretary of Transportation may grant any additional subsidy amounts necessary to pay for that difference.

"(b) The Secretary of Transportation may grant additional subsidy sufficient to make it economically viable for a documented vessel to provide a specific service if the Secretary determines that—

"(1) the service is not being provided by documented vessels; and

"(2) it is in the national interest that the service be provided.".

(5) Section 605(b) is amended to read as follows:

"(b) Except as provided in section 603(b)(2), the Secretary of Transportation may not pay operating-differential subsidy for a vessel that is more than twenty-five years of age.".

(6) Section 606 is amended—

(A) by striking paragraph (3);

(B) in paragraph (4)—

(i) by striking "(4)" and substituting "(3)";

(ii) by striking "in such an essential service,";

(iii) by striking "to maintain such essential service"; and

(iv) by striking "such essential service" the second place it is found and substituting "the contract"; and

(C) in paragraph (5)—

(i) by striking "(5)" and substituting "(4)"; and

(ii) by striking "with respect to essential services, and any services authorized under section 613 of this title,".

(7) Section 610 is amended in the first sentence by inserting "bulk" between "any" and "vessel".

(8) Section 615 is amended to read as follows:

"SEC. 615. (a) An operator that is a party to an operating-differential subsidy contract on January 1, 1987 shall amend that contract to comply with the requirements of section 603 (b) and (c) of this Act or enter into a new contract under section 603 (b) and (c). An operator that separately or with affiliated companies has two or more contracts may not amend less than all of its existing contracts.

"(b) An operator owning or chartering fewer than ten vessels may continue to serve an essential trade route or a portion of an essential trade route that the operator was serving on January 1, 1987. Except as provided in section 616(b) of this Act, that operator may not use more capacity than the operator used in 1986.

"(c) Contracts entered into or amended after January 1, 1987 shall have the same force and effect as contracts entered into before January 1, 1987.".

(9) Following section 615, insert the following new sections:

"SEC. 616. (a) An operator receiving operating-differential subsidy may operate on an essential trade route served by another operator choosing to exercise his rights under section 615(b) of this Act if—

"(1) that operator was operating on that route in any year between 1982 and 1986; and

"(2) that operator does not provide more service than that operator provided in any year between 1982 and 1986.

"(b)(1) Except as provided in subsection (a) of this section, when an operator chooses to continue receiving subsidy under section 615(b) of this Act on an essential trade route, the Secretary of Transportation may authorize any operator to provide increased service on that route only if the Secretary determines under section 605(c) of this Act that there is a need for increased service on that route.

"(2) The Secretary may require the operator providing the increased service under this subsection to stop serving that trade route when the Secretary determines that the need for increased service no longer exists.

"(c) Except as provided in this section, an operator receiving operating-differential subsidy under section 603(b) of this Act is not subject to the requirements of section 605(c) of this Act.

"(d) The Secretary of Transportation shall enter into a contract within sixty days after an applicant has applied for a contract under section 603(b) of an amended contract under section 615 of this Act. All contracts or contract amendments are effective on October 1, 1988, unless the application is received after August 1, 1988. For applications received after August 1, 1988, the Secretary shall enter into a contract to pay operating-differential subsidy for a vessel meeting the criteria of section 603 within sixty days following receipt of an application from an operator meeting the criteria of section 601. A contract or contract amendment entered into after October 1, 1988 shall become effective on the date the contract is entered into.".

"SEC. 617. No operator may receive operating-differential subsidy for more than the number of vessels in actual operation in 1986 plus an additional one-third or twenty-three vessels, whichever is less. An operator may receive subsidy on vessels acquired through mergers or capital asset purchase from an unrelated entity that is a party to an operating-differential subsidy contract. The limitation does not require the use of any specific vessel or operation during a specific time, but merely limits the amount of subsidy an operator is eligible to receive during a year.".

SEC. 4. title VIII of the Merchant Marine Act, 1936 (46 App. U.S.C. 1211 et seq.) is amended as follows:

(1) Section 804 is amended to read as follows:

"SEC. 804. (a) An operator applying for or receiving operating-differential subsidy may not own, charter, or operate a foreign-flag vessel that provides service between the United States and a foreign country. However, if the operator owned, chartered, or operated that vessel on January 1, 1987, the operator may continue to own, charter, or operate the vessel in that service until October 1, 1988.

"(b) An operator applying for or receiving operating-differential subsidy may own, charter, or operate a foreign-flag vessel providing service other than described in subsection (a) of this section. However, the number of foreign-flag feeder vessels owned, chartered, or operated by an operator may not exceed two times the number of vessels operating under the operator's operating-differential subsidy contract.

"(c) Operators applying for or receiving operating-differential subsidy may use foreign-flag vessels between United States territories and possessions and foreign ports in the Atlantic Ocean and Caribbean.

"(d) The Secretary of Transportation may authorize operators to enter into voyage charters with operators of foreign-flag vesssels under appropriate conditions and limitations imposed by the Secretary.

"(e) Space-charter agreements with foreign-flag vessels do not require approval by the Secretary of Transportation.".

(2) Section 805 is amended—

(A) in subsection (a) by striking the proviso and substituting "An operator of a vessel (other than a bulk vessel) that did not receive receiving operating-differential subsidy in 1986 and provided domestic, intercoastal, or coastwise service may provide a level of service no greater than the service that operator provided in 1986. Vessels under construction in the United States prior to January 1, 1987 as replacements for vessels operating in domestic, intercoastal, or coastwise service do not require approval under this section."; and

(B) by adding at the end the following new subsection:

"(g) Applications for permission must disclose the nature and scope of the proposed domestic intercoastal or coastwise service. The Secretary of Transportation shall consider the impact of a grant of permission on the operations of existing exclusively domestic services.".

SEC. 5. Section 901 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241) is amended—

(1) in section 901(b)(1), by striking the last sentence;

(2) in section 901(c), by striking "That notwithstanding any other provision of law, privately owned American shipping services may be utilized" and substituting "A privately-owned United States-flag commercial vessel shall be used"; and

(3) by adding the following new subsections:

"(d) When the Secretary of Transportation determines a fair and reasonable rate for the transportation of cargo under this section based on a return voyage in ballast, an owner or operator of a vessel transporting cargo under this section shall reimburse the United States Government an amount the Secretary determines to be appropriate when the vessel—

"(1) transports cargo on any segment of the return voyage;

"(2) is scrapped in a foreign country; or

"(3) is sold to a foreign person and the title is transferred before the vessel's return to the United States.

"(e) An owner or operator of a vessel transporting cargo under this section shall notify the Secretary of Transportation when the vessel—

"(1) transports cargo on any segment of the return voyage;

"(2) is scrapped in a foreign country; or

"(3) is sold to a foreign person.

"(f) The Secretary of Transportation shall maintain a list of vessels that may be scrapped in a foreign country and shall provide a copy of that list on a monthly basis to all agencies using privately-owned United States-flag commercial vessels to transport preference cargoes.

"(g) In this section, 'privately-owned United States-flag commercial vessel' means a vessel—

"(1) constructed to transport cargo in bulk that—

"(A) was built in the United States and continuously documented under chapter 121 of title 46, United States Code; or

"(B) was built outside of the United States and documented under that chapter for three years; or

"(2) not constructed to transport cargo in bulk that—

"(A) was built in the United States and continuously documented under chapter 101 of title 46, United States Code;

"(B) was built or rebuilt outside the United States and was less than five years of age on the date it was documented;

"(C) is less than ten years of age on the date it is documented, if the Secretary, in consultation with the Secretary of Defense, determines the vessel is suitable for use by the United States Government for national defense or a national emergency;

"(D) is more than five years of age on the date it is documented but has been documented for a period of three years; or

"(E) is a roll-on/roll-off vessel documented before May 1, 1986.".

SEC. 6. Section 8103(c) of title 46, United States Code is amended by—

(1) striking "(c)" and substituting "(c)(1);

(2) striking "vessel" and substituting "documented vessel"; and

(3) adding at the end the following new paragraph:

"(2) On a foreign-flag feeder vessel for which an operating-differential subsidy contract has been granted, all of the seamen of the vessel must be citizens of the United States.".

I

100TH CONGRESS
1ST SESSION

H. R. 2462

To establish and maintain a merchant marine auxiliary sealift and training program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1987

Mr. JONES of North Carolina (for himself and Mr. ANDERSON) introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries and Armed Services

---

A BILL

To establish and maintain a merchant marine auxiliary sealift and training program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maritime Auxiliary Sealift and Training Act of 1987".

TITLE I—GENERAL

SEC. 101. DEFINITIONS.

In this Act—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under chapter 121 of title 46, United States Code;

(2) "foreign vessel" means a vessel of foreign registry or operating under the authority of a country except the United States;

(3) "Ready Reserve Force" means a subset of the National Defense Reserve Fleet that is composed of vessels—

(A) having a high degree of military utility; and

(B) maintained in not more than twenty-day readiness status;

(4) "related party" means—

(A) a holding company, subsidiary, affiliate, or associate of a contractor under this Act; and

(B) an officer, director, agent, or other executive of the contractor or an entity named in clause (A) of this paragraph; and

(5) "Secretary" means the Secretary of the department in which the Maritime Administration is operating.

SEC. 102. SEALIFT READINESS NEEDS.

(a) Before January 1, 1988, and before January 1 of each fifth year after that date, the Secretary and the Secretary of Defense shall identify jointly—

(1) the number and gross tonnage of vessels necessary to meet sealift needs;

(2) the number of seamen billets needed to operate those vessels; and

(3) the need for specialty vessels to meet unique sealift demands.

(b) Until the Secretary and the Secretary of Defense make the identifications required under subsection (a) of this section, the needs identified under this section are deemed to be six hundred vessels and nineteen thousand three hundred sixty two seamen billets.

SEC. 103. LIMITATIONS ON PURCHASES FOR NATIONAL DEFENSE RESERVE FLEET.

The Secretary may acquire for the National Defense Reserve Fleet (including the Ready Reserve Force) only if—

(1) all eligible documented vessels that have applied for contracts under this Act have been given contracts under this Act; and

(2) the sealift needs identified in section 102 of this Act have not been met by the total of the vessels—

(A) in the Ready Reserve Force;

(B) operating under a contract under title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171 et seq.);

(C) operating, or eligible to operate, under a maritime auxiliary sealift and training contract under this Act;

(D) which are militarily useful and documented for the coastwise trade; and

(E) operated by the Military Sealift Command.

TITLE II—MARITIME AUXILIARY SEALIFT AND TRAINING PROGRAM

SEC. 201. APPLICATIONS FOR PAYMENTS.

The owner of documented vessel may apply to the Secretary for a maritime auxiliary sealift and training payment contract to compensate the owner of a documented vessel for the services that the vessel and crew provide for the national defense. The application must include a statement, under oath and in the form prescribed by the Secretary, disclosing—

(1) the name and address of each person exercising control over the vessel, whether by ownership, charter, or other right to operate, including those individuals required to be citizens under section 12102 of

title 46, United States Code, and the nature and extent of that person's control; and

(2) financial and other information the Secretary may require.

SEC. 202. CONSIDERATION AND APPROVAL OF CONTRACTS.

(a)(1) Except as provided in paragraph (2) of this subsection, and subject to Appropriations laws, the Secretary shall approve an application made under section 201 of this Act, and enter into a contract, if—

(A) the applicant owns or leases, or can and will build, purchase, or lease, a vessel of the size, type, and speed, and with the equipment necessary for the vessel to meet competitive conditions;

(B) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to operate the vessel under competitive conditions;

(C) the vessel is engaged in foreign commerce (including foreign-to-foreign trade);

(D) the vessel is offered and accepted for enrollment in a sealift readiness program approved by the Secretary of Defense;

(E) the vessel is a documented vessel;

(F) the vessel will not be under an operating differential subsidy contract when a contract is entered into under this Act; and

(G) the vessel is at least five thousand deadweight tons.

(2) The Secretary is not required to enter into a contract under this section when the sealift needs identified in section 102 of this Act have been met by the total of the vessels—

(A) in the Ready Reserve Force;

(B) operating under a contract under title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171 et seq.);

(C) operating under a maritime auxiliary sealift and training payment contract under this Act;

(D) which are militarily useful and documented for the coastwise trade; and

(E) operated by the Military Sealift Command.

(b) All maritime auxiliary sealift and training payment contracts made under this Act constitute legal obligations of the United States Government for all purposes.

(c) A contract entered into under this title may not be for a period of less than five years or more than twenty years. However, for a vessel that is more than twenty years of age, the contract may be for a period of less than five years.

SEC. 203. OBSOLETE VESSELS.

(a) Only a vessel that is not more than twenty-five years of age may receive a payment under this Act.

(b) The Secretary may issue an order waiving subsection (a) of this section for a vessel if the Secretary finds that a waiver is in the public interest.

SEC. 204. RESTRICTIONS ON CONTRACT VESSELS OPERATING IN THE COASTWISE TRADE.

The Secretary may not make a payment under this Act for days on a voyage during which a vessel eligible to engage in the coastwise trade is engaged in that trade, either directly or through a place outside the United States.

SEC. 205. RESTRICTIONS ON CONTRACTORS ENGAGING IN COASTWISE OPERATIONS.

A contractor operating vessels exclusively engaged in the coastwise trade must operate those vessels under a separate business entity than the entity operating the contractor's vessels under a maritime auxiliary sealift and training contract, with a certification to the Secretary that earnings from foreign operations have not been and will not be used by or transferred to the coastwise entity.

SEC. 206. ESSENTIAL SERVICE RESTRICTIONS.

(a) A vessel receiving a maritime auxiliary sealift and training payment under this Act may engage in an essential service (as defined in section 601 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171)) served on January 1, 1986 by an operator receiving an operating differential subsidy payment only if—

(1)(A) that vessel is operating on that essential service on the date of enactment of this section; and

(B) the level of service provided by that vessel is not more than the level provided by that vessel on that essential service in the twelve months before the date of enactment of this section; or

(2) the Secretary makes a determination under section 605(c) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1175).

(b) The Secretary may require the vessel providing the increased service under subsection (a)(2) of this section to stop serving that trade route when the Secretary determines that the need for increased service no longer exists.

SEC. 207. OPERATING FOREIGN VESSELS.

(a) Except as provided in this section, a contractor receiving a maritime auxiliary sealift and training payment, or a related party, may not own, charter, operate, or act as an agent or broker for a foreign vessel.

(b) A contractor may operate a foreign vessel—

(1) if the Secretary waives subsection (a) of this section for a contractor under special circumstances for a specified period of time and for good cause shown;

(2) if the contractor—

(A) has applied for a contract under this Act for an eligible vessel to be used as a feeder vessel in foreign-to-foreign service; and

(B) is turned down for a contract for that feeder vessel due to insufficient amounts in appropriations laws;

(3) until January 1, 1990, if that contractor owned that vessel on January 1, 1987;

(4) under a maritime auxiliary sealift and training payment contract during the two week period during which the documented vessel is participating in naval maneuvers under section 401(1) of this Act; or

(5) subject to approval by the Secretary, under a maritime auxiliary sealift and training payment contract for not more than six months (nonrenewable) as a replacement for a documented vessel under a auxiliary sealift and training payment contract that has been lost or disabled by a marine casualty.

TITLE III—AMOUNTS OF PAYMENTS

SEC. 301. PAYMENT FORMULA.

(a) The amount of the maritime auxiliary sealift and training payment paid for a vessel annually under this Act is equal to the total of—

(1) the average cost of acquiring and bringing up to five-day breakout status the last twenty vessels pur-

chased for the Ready Reserve Force divided by the remaining useful life of those vessels if activated during the period specified in section 102(a) of this Act;

(2) the annual average cost of maintaining a vessel in the Ready Reserve Force in five-day breakout status; and

(3) the annual average cost of training and maintaining officer and enlisted reserves for a vessel in the Ready Reserve Force.

(b) The Secretary shall adjust the cost determined under subsection (a) of this section on October 1 of each year.

(c) The Secretary shall pay monthly the maritime auxiliary sealift and training payment for voyage days (including not more than two weeks maintenance layup annually) during the month on a contractor's certification that the vessel was in authorized service on those days.

SEC. 302. SPECIALTY VESSELS AND DEFENSE FEATURES.

(a) The Secretary, in consultation with the Secretary of Defense, shall identify defense features or equipment that should be included in the design and construction of new vessels or reconstruction of existing vessels that will receive a maritime auxiliary sealift and training payment. The Secretary shall pay, subject to Appropriations laws, the vessel owner for the incorporation of these features or the allocation of space for the future addition of defense equipment.

(b) The Secretary, on the recommendation of the Secretary of Defense, shall make, subject to Appropriations laws, additional payments to compensate a vessel owner for the loss of capacity or efficiency attributable to the required design of the vessel, or the incorporation of certain construction features, made necessary to meet sealift requirements of the Department of Defense.

SEC. 303. PAYMENTS FOR NAVAL MANEUVERS.

When the Secretary requires a vessel to participate in naval maneuvers under section 401(3) of this Act, the Secretary shall compensate the owner of that vessel at the commercial time charter rate for that vessel.

TITLE IV—CONTRACTS AND ADMINISTRATION OF PAYMENTS

SEC. 401. REQUIRED CONTRACT PROVISIONS.

Each contract for a maritime auxiliary sealift and training payment shall include the following provisions:

(1) The contractor must make the vessel available for a national emergency, and for not more than two weeks each year for naval maneuvers.

(2) The contractor shall conduct its vessel operations in an efficient and economical manner.

(3) Under terms and in amounts decided by the Secretary, the payments under this Act shall be reduced for any period that a contract vessel is laid-up.

(4)(A) At least 75 per centum of the seamen on the vessel must be members of the Naval Reserve. Members of the Naval Reserve shall wear on the seaman's uniform a special distinguishing insignia approved by the Secretary of the Navy.

(B) For the other 25 per centum of the crew, a seaman who is otherwise qualified may not be discriminated against because of the seaman's failure to qualify as a member of the Naval Reserve.

(5) If appropriations laws provide adequate funding for defense features identified in section 302 of this Act, the owner shall include those features on the vessel or leave adequate space available for the future defense equipment that may be added under that section by the Secretary.

(6) The contractor and each affiliate, domestic agent, subsidiary, and holding company connected with, or controlling or controlled by, the contractor, shall—

(A) keep its records on maintenance, operation, and servicing of the vessels, services, routes, and lines covered by the contract in a form and under regulations prescribed by the Secretary; and

(B) file, on notice from the Secretary, balance sheets, profit and loss statements, and other statements of financial operations, special reports, and memoranda of facts and transactions that the Secretary believes affect the financial results in, the performance of, or transactions or operations under, the contract.

(7) The Secretary may examine the records of each person referred to in paragraph (6) of this subsection when the Secretary considers it desirable.

(8) On the willful failure of a person described in paragraph (6) of this subsection to comply with the contract provisions required by paragraphs (6) and (7) of this subsection, the Secretary may rescind the contract. On recission, the United States Government shall be relieved of further liability under the contract.

SEC. 402. SALE OR ASSIGNMENT OF CONTRACTS.

(a) Except with the written consent of the Secretary, a contractor may not make an agreement that effectively transfers control of the vessel from the contractor to another person.

(b) If the Secretary consents to a transfer under subsection (a) of this section, the transfer shall provide that the person undertaking the effective control of the vessel agrees to be bound by the contract, this Act, and regulations prescribed under this Act.

(c) If a contractor violates subsection (a) of this section or if the operation of a vessel passes out of the direct control of a contractor by reason of bankruptcy or any other proceeding creating a receiver, the Secretary may change or rescind the contract without further liability to the United States Government.

TITLE V—MARITIME ADMINISTRATION

SEC. 501. RELATIONSHIP TO NAVY DEPARTMENT.

On declaration of war or national emergency, the Maritime Administration shall operate as a command in the Department of the Navy, and shall continue in that operation until the President, by Executive order, transfers the Maritime Administration back to the Department of Transportation. When operating as a command in the Navy, the Maritime Administration is subject to the orders of the Secretary of the Navy, who may order changes in Maritime Administration operations to render them uniform, to the extent the Secretary considers advisable, with Navy operations.

SEC. 502. OPERATION AS A COMMAND IN THE NAVY.

When the Maritime Administration operates as a command in the Navy:

(1) Applicable appropriations for the Navy Department are available for the expense of the Maritime Administration.

(2) Applicable appropriations for the Maritime Administration are available for transfer to the Navy Department.

SEC. 503. DUTIES AND POWERS VESTED IN THE SECRETARY.

A reference in a law of the United States to the Maritime Administration, a predecessor agency, or an officer or office the duties or powers of which were transferred to, and vested in, the Secretary of Transportation by the Maritime Act of 1981 is deemed to refer to the Secretary of the department in which the Maritime Administration is operating.

TITLE VI— MISCELLANEOUS

SEC. 601. TRANSPORTATION OF GOVERNMENT IMPELLED CARGO.

Notwithstanding section 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)), a vessel operating under a contract under this Act that has been documented for less than 3 years may transport cargo in the foreign commerce under that section. If that vessel earns any gross revenue on the transportation of that cargo, the payment under this Act for the entire voyage shall be reduced by an amount determined by—

(1) dividing the gross revenue from the transportation of that cargo by the gross revenue from the entire voyage; and

(2) multiplying the amount determined under paragraph (1) of this subsection by the payment otherwise payable.

SEC. 602. CITIZENSHIP ON VESSELS UNDER MARITIME AUXILIARY SEALIFT AND TRANINING PAYMENT CONTRACT.

Section 8103(c) of title 46, United States Code is amended by—

(1) striking "(c)" and substituting "(c)(1)"; and

(2) adding at the end the following new paragraph:

"(2) On a vessel operating under a maritime auxiliary sealift and training payment contract, all of the seamen of the vessel must be citizens of the United States.".

SEC. 603. REVIEW OF ACTIONS BY THE SECRETARY.

Any final action by the Secretary under this Act is reviewable in the Court of Appeals for the Circuit in the District of Columbia.

SEC. 604. AMENDMENTS TO TITLE VI OF MERCHANT MARINE ACT, 1936.

(a) Section 601(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171) is amended by adding after "in section 211(b)." the following sentence: "However, if a service, route, or line is not being served after January 1, 1987 by a vessel subsidized under this title then that service, route, or line is abandoned and is not an essential service.".

(b) Add at the end of section 615, Merchant Marine Act, 1936 (46 App. U.S.C. 1185): "A vessel may not be constructed or reconstructed in a foreign shipyard under this section unless that construction or reconstruction was contracted for before January 1, 1987.".

(c) At the end of title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171 et seq.) add the following section:

"SEC. 616. The Secretary may not—

"(1) prescribe any regulations under this title that make any substantive changes to those regulations as of January 1, 1987; or

"(2) by contract or rule change the essential service of an operator under this title from the service that operator was serving on January 1, 1986.".

SEC. 605. COASTWISE POSITIONING OF CONTAINERS.

Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended in the eighth proviso by striking "until April 1, 1984, and".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

(a) In fiscal year 1987, any amounts necessary to carry out this Act are authorized to be appropriated.

(b) Any amounts appropriated for the Operating-differential Subsidy Account that are, or become, unobligated may be used to fund contracts entered into under this Act.

I

100TH CONGRESS
1ST SESSION

H. R. 3297

To amend the Merchant Marine Act, 1936, to establish a new system of operating-differential subsidy contracts for vessels in liner service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 1987

Mr. DAVIS of Michigan introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To amend the Merchant Marine Act, 1936, to establish a new system of operating-differential subsidy contracts for vessels in liner service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vessel Operating-Differential Subsidy Act of 1987".

SEC. 2. AUTHORIZATION OF CONTRACTS AND AMENDMENT OF CONTRACTS.

Title VI of the Merchant Marine Act, 1936, is amended—

(1) by inserting "**Subtitle A—Contracts**" as a centered heading before section 601; and

(2) by adding at the end the following:

"Subtitle B—New and Amended Contracts

"SEC. 620. LINER OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS AND CONTRACT AMENDMENTS

"(a) CONTRACT REQUIREMENT.—The Secretary shall enter into a liner vessel operating-differential subsidy contract with any person who is eligible under section 621 to enter into a contract and who—

"(1) submits an application within 120 days after the date of the enactment of this subtitle; or

"(2) submits an application after 120 days after the date of the enactment of this subtitle if the Secretary determines—

"(A) that the person meets the requirements described in section 601; and

"(B) that operations proposed in the application will further the purposes of this Act.

"(b) AMENDMENT OF EXISTING CONTRACTS.—

"(1) IN GENERAL.—The Secretary shall amend an existing contract upon application by a contractor under section 622(b).

"(2) MULTIPLE CONTRACTS.—A contractor who, individually or with one or more affiliated companies, is a party to two or more existing contracts—

"(A) shall amend all contracts; and

"(B) may consolidate the amended contracts or amend the contracts separately.

"(c) EFFECTIVE DATE.—A qualifying application submitted under subsection (a) shall be approved by the Secretary within 30 days after submission. A contract awarded or amended under section 622(b) shall be effective upon approval of the application by the Secretary.

"(d) CONTRACTS CONSTITUTE PRIOR LEGAL OBLIGATIONS.—

"(1) IN GENERAL.—Contracts entered into or amended under this subtitle constitute prior legal obligations of the United States.

"(2) NOT SUBJECT TO APPROPRIATIONS.—Notwithstanding any other law—

"(A) a contract entered into or amended under this subtitle;

"(B) the authority of the Secretary to enter into or amend a contract under this subtitle; and

"(C) the entitlement of a person to enter into a contract under this subtitle;

may not be conditioned or limited in any way on receipt by the Secretary of budget authority in advance in appropriations Acts.

"(e) CONTRACTS UNDER EXISTING PROVISIONS.—The Secretary may not enter into contracts under subtitle (A) of this title after the date of the enactment of this subtitle.

"SEC. 621. PERSONS ELIGIBLE TO ENTER INTO OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.

"(a) PERSONS OPERATING VESSELS THROUGHOUT FY 1986.—A person is eligible to enter into a contract under section 620 if that person—

"(1) is a citizen of the United States; and

"(2) operated a liner vessel documented under the laws of the United States in foreign commerce continuously throughout fiscal year 1986.

"(b) PERSONS NOT OPERATING VESSELS THROUGHOUT FY 1986.—A person who did not operate a liner vessel documented under the laws of the United States in foreign commerce continuously throughout fiscal year 1986 is eligible to enter into a contract under section 620 if that person—

"(1) is a citizen of the United States;

"(2) except as otherwise provided in this subtitle, meets the requirements of section 601; and

"(3) proposes operation of a qualified vessel which the Secretary determines will further the purposes and policies of this Act.

"SEC. 622. CONTRACTING AND AMENDING PROCEDURES.

"(a) In General.—

"(1) Mutual agreement required.—Contracts amended under this subtitle may be amended only upon the mutual agreement of the Secretary and the contractor to the terms of any amendment.

"(2) Notice to employees.—A contractor shall give reasonable notice to individuals employed on each vessel under a contract which the contractor intends to amend under this subtitle prior to notification of the Secretary.

"(b) Contracting Procedure.—An application for an operating-differential subsidy under this subsection—

"(1) may be submitted to the Secretary after the date of the enactment of this subtitle;

"(2) shall include—

"(A) a description of the operations to be performed under any contract awarded on the basis of the application;

"(B) a list of all contract vessels under the contract;

"(C) an affidavit of citizenship required by law; and

"(D) additional information as may be required by the Secretary.

"(c) AMENDING PROCEDURE.—Procedures to amend contracts shall be prescribed by the Secretary by regulation.

"SEC. 623. TERMS AND RESTRICTIONS OF CONTRACTS.

"(a) IN GENERAL.—Each contract entered into or amended under this subtitle shall include the following terms:

"(1) PAYMENT OF SUBSIDY.—

"(A) IN GENERAL.—The Secretary shall pay to a contractor on a semimonthly basis an amount determined under section 624 with respect to operation of contract vessels during the preceding month.

"(B) COMPUTATION OF SUBSIDY.—Payment pursuant to this paragraph shall be made promptly on receipt by the Secretary—

"(i) of the contractor's certification that crew wages and fringe benefit obligations of the contractor for the preceding month have been incurred in accordance with its labor contract obligations; and

"(ii) of a description of the nature and extent of operations of contract vessels in foreign commerce during the preceding month.

"(2) CONTRACT VESSELS.—

"(A) IN GENERAL.—A liner vessel operating in foreign commerce that qualifies for payment under the contract shall be listed.

"(B) REQUIREMENTS.—In order to be included in the list required by subparagraph (A), a vessel shall meet the requirements for a qualified vessel under section 625.

"(C) CONVERSION OF CERTAIN CONTRACT VESSELS FOR DEFENSIVE PURPOSES.—

"(i) IN GENERAL.—The Secretary, in consultation with the Secretary of the Navy, may determine whether a qualified vessel is convertible in an economical manner into an auxiliary naval vessel, or would be otherwise useful to the United States in time of war or national emergency.

"(ii) ADDITIONAL FEATURES.—If the Secretary determines that additional features are necessary for a vessel referred to in clause (i), the Secretary of the Navy may—

"(I) pay the cost of adding the features to the vessel, and

"(II) pay any costs resulting from the addition of the features.

"(3) OPERATION OF NONCONTRACT VESSELS IN FOREIGN COMMERCE.—Vessels owned, operated, or chartered by the contractor which are not contract vessels may not be restricted from operating in foreign commerce.

"(4) OPERATION OF CONTRACT VESSELS IN NONCONTRACT TRADE.—Contract vessels may operate in a trade area only if vessels documented in the United States carry less than 50 percent of the trade in that area.

"(5) DOMESTIC LINER SERVICE.—

"(A) IN GENERAL.—Unless permitted to do so under section 805, or as otherwise provided by this paragraph, a contractor may not directly or indirectly—

"(i) own, operate, or charter a vessel in domestic liner service; or

"(ii) contract for or otherwise engage in the carriage of cargo in domestic liner service (including a space charter) on any voyage.

"(B) LINER OPERATORS ENGAGED IN SERVICE DURING 1986.—A liner vessel operator may engage in domestic liner service in substantial accord with the service provided during calendar year 1986 without obtaining further authority under section 805 if the operator—

"(i) engaged in the carriage of cargo in domestic liner service during calendar year 1986 without a contract under this title; or

"(ii) was authorized under section 805 or the terms of a contract under this title to engage in domestic liner services during calendar year 1986.

"(C) REPLACEMENT VESSELS.—An operator described in subparagraph (B) may replace a vessel described in subparagraph (B)(i) with a vessel which was under construction in the United States on January 1, 1986.

"(6) MANNING REQUIREMENT.—Section 8103 of title 46, United States Code, applies to each contract vessel.

"(7) LENGTH OF CONTRACT.—Notwithstanding the provisions of section 603(a) or the date of the execution of a contract under this subtitle, a contract is in effect until the end of the 10-year period beginning on the date of the enactment of this subtitle, or for a shorter period approved by the Secretary.

"(8) RENEWAL OF CONTRACTS.—If a contractor continues to meet the requirements of this subtitle, a contract shall be renewed for additional periods of not more than 10 years.

"(9) AFFIDAVIT OF CITIZENSHIP.—An affidavit of citizenship shall be submitted by a contractor upon each anniversary of the effective date of the contract to which the contractor is a party.

"(10) CONTRACT RESCISSION.—

"(A) IN GENERAL.—A contract may be rescinded upon the agreement of the Secretary and the contractor.

"(B) NOTICE TO EMPLOYEES.—Prior to the recision of a contract, a contractor shall give reasonable notice of the contractor's intention to rescind the existing contract to the individuals employed on each contract vessel.

"(b) PROVISIONS NOT APPLICABLE TO AMENDED CONTRACTS.—Except as otherwise provided, the following shall not apply to an amended contract under this subtitle:

"(1) NONSUBSIDIZED OPERATIONS.—Any requirement which regulates any nonsubsidized operations.

"(2) NUMBER OF SAILINGS.—Any requirement restricting the operation of vessels or the payment of a subsidy based on a minimum or maximum number of sailings.

"(3) OTHER PROVISIONS.—Any provision of law or contract which is otherwise inconsistent with this subtitle.

"SEC. 624. PAYMENTS UNDER CONTRACTS.

"(a) DETERMINATION OF PAYMENT.—

"(1) IN GENERAL.—Except as provided in subsection (b), payments for the operation of a contract vessel on a qualifying voyage shall be in an amount equal to—

"(A) the wage differential for domestic liner operation, plus

"(B) the payments described in section 623(a)(2)(C)(ii)(II).

"(2) OPERATIONS WITHIN 24 MONTHS AFTER DATE OF ENACTMENT OF SUBTITLE.—Payment under an amended contract for operation of a contract vessel on a qualifying voyage occurring during the 24-month period after the date of the enactment of this subtitle shall be calculated as provided in the contract as in effect prior to amendment of the contract.

"(3) WAGE DIFFERENTIAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), wage differential shall be equal to the difference between—

"(i) the most economical nongovernmental wage package in effect for manning levels required under section 8101 of title 46, United States Code, for a qualified vessel, as adjusted by applying the index compiled by the Bureau of Labor Statistics under section 603(c)(3) in the manner described in section 603(c)(1)(B); and

"(ii) the average wage costs for all substantial foreign competitors (determined on a weighted basis) who serve the trade areas served by the contract vessel with respect to which the wage differential is determined.

"(B) MANNING LEVELS FOR OPERATIONS DURING 3-YEAR PERIOD FOLLOWING THE DATE OF ENACTMENT OF SUBTITLE.—

"(i) VESSEL CONSTRUCTED BEFORE THE DATE OF ENACTMENT OF SUBTITLE.—

"(I) IN GENERAL.—Except as provided in subclause (II) or clause (ii), the wage differential during the 3 years following the date of the enactment of this subtitle for operations of a vessel the construction of which was completed before that date shall be determined based on the numbers and ratings of United States officers and crew on the vessel during those operations.

"(II) PRIOR DETERMINATIONS.—If before the date of the enactment of this subtitle the Secretary determined the manning levels to be used in determining payments under this title for operations of a contract vessel, the wage differential for operations of the vessel during the 3 years following that date shall be determined with respect to such manning levels.

"(ii) VESSELS CONSTRUCTED OR DOCUMENTED AFTER THE DATE OF ENACTMENT OF SUBTITLE.—The wage differential for operations during the 3-year period beginning on the date of the enactment of this subtitle—

"(I) of a contract vessel the construction of which was completed on or after that date; and

"(II) of a contract vessel documented under the laws of the United States on or after the date;

shall be determined with respect to the numbers and rating of United States officers and crew of such vessel, as determined by the Secretary.

"(C) MANNING LEVELS FOR OPERATIONS AFTER 3-YEAR PERIOD FOLLOWING THE DATE OF ENACTMENT OF SUBTITLE.—The wage differential for operations of a contract vessel after the period described in subparagraph (A) shall be determined based on the numbers and ratings of officers and crew established under section 8103 of title 46, United States Code.

"(D) WAGE COST OF FOREIGN COMPETITOR.—For purposes of subparagraph (A)(ii), wage costs of a foreign competitor shall be equal to—

"(i) all items of expense incurred by a competitor for employees or under collective bargaining or other labor agreements, including the cost to a competitor of pensions, welfare, training, unemployment, and fringe or similar benefits; plus "(ii) taxes and other governmental assessments on crew payrolls of the foreign competitor;

computed according to the procedures described in section 603(d).

"(b) LIMITATIONS ON PAYMENTS.—

"(1) LIMIT ON NUMBER OF SHIP YEARS OF OPERATIONS.—Except as provided in paragraph (2) of this subsection, payments to a contractor for operations of the contractor under a contract under this subtitle during a single year shall not exceed a sum determined with respect to—

"(A) 20 ship years of operations of contract vessels; or

"(B) the number of ship years of operation of contract vessels by the contractor during calendar year 1986;

whichever is less.

"(2) PRIORITY WITH RESPECT TO CERTAIN OPERATIONS.—For a period of 2 years after the date of the enactment of this subtitle, any contractor which during calendar year 1986 operated fewer than 10 vessels under an operating-differential subsidy contract shall be entitled to priority with respect to the operation of additional vessels, subject to a maximum of 12 contract vessels.

"(3) INCREASES IN AMOUNT OF PAYMENTS.—The amount described in paragraph (1) may be increased as appropriate with respect to acquisitions of, mergers with, or capital asset purchases from, an otherwise unrelated entity—

"(A) if on the date of the acquisition, merger, or purchase such entity is a party to a contract under this subtitle; and

"(B) if such acquisition, merger, or capital asset purchase occurs after the date of enactment of this subtitle.

"(4) CARRIAGE OF CERTAIN RESERVED CARGO.—Payments under a subsidy contract shall be reduced in relation to any cargo carried by a contract vessel which is reserved to privately owned commercial vessels documented under the laws of the United States—

"(A) under the Cargo Preference Act of 1904 (10 U.S.C. 2631);

"(B) under section 901(b) of this Act; or

"(C) by reason of Public Resolution 17 (46 U.S.C. App. 1241 et seq.).

"(5) SECTION 605 REDUCTION.—Payments under a subsidy contract shall be reduced as provided in section 605.

"(c) PAYMENTS DURING PERIOD OF DISPUTE.—

"(1) IN GENERAL.—Pending the resolution of any dispute between the Secretary and a contractor regarding the amount of payment due under a subsidy contract, the Secretary shall pay any amount with respect to which there is no dispute.

"(2) INTEREST.—The Secretary shall pay interest on any amount which was the subject of a dispute referred to in paragraph (1) commencing 90 days after the first day of the period in dispute.

"(d) RECOVERY OF UNAUTHORIZED PAYMENTS.—The Secretary may take action as may be necessary to recover amounts paid to a contractor which are in excess of amounts due under this Act or another law.

"SEC. 625. QUALIFIED VESSEL DESCRIBED.

"(a) IN GENERAL.—A vessel shall be a qualified vessel if it is—

"(1) constructed in the United States of steel or other acceptable metal;

"(2) self-propelled by steam or motor;

"(3) as nearly fireproof as practicable;

"(4) over 5,000 deadweight tons;

"(5) less than 25 years old, unless the Secretary finds that it is in the public interest to allow operation of a vessel which is more than 25 years old under a subsidy contract; and

"(6) documented under the laws of the United States.

"(b) OTHER VESSELS.—Notwithstanding subsection (a), the following vessels may be qualified vessels:

"(1) FOREIGN-BUILT.—A vessel which was not constructed in the United States shall be a qualified vessel with respect to operations of such vessel after the date of the enactment of this subtitle if the vessel—

"(A) was constructed, reconstructed, modified, or acquired under authority provided under section 615; and

"(B) was operated continuously throughout the year preceding the date of the enactment of this subtitle—

"(i) by or under charter to a contractor in foreign commerce during a calendar year preceding the date of the enactment of this subtitle; and "(ii) without an operating-differential subsidy under a contract made under this title.

"(2) GOVERNMENT CHARTER.—A vessel under charter to the Government of the United States throughout the year preceding the date of the enactment of this subtitle.

"(3) NEW VESSELS AND VESSELS UNDER CONSTRUCTION OR RECONSTRUCTION.—A vessel under construction or reconstruction, or the acquisition of which is contracted for, before February 2, 1986—

"(A) which meets the requirements of subsection (a); or

"(B) under authority granted under section 615.

"(4) FOREIGN-FLAG VESSELS.—A vessel documented under the laws of a foreign country which was operated by the contractor between a place in the United States and a foreign place throughout the year preceding the date of the enactment of this subtitle, with respect to operations of such vessel—

"(A) by an operator between such places; and

"(B) for a period as the Secretary determines is necessary document such vessel under the laws of the United States.

"(5) OTHER VESSELS.—A vessel other than a vessel described in subsection (a) or paragraphs (1) through (4) of this subsection, the operation of which under a subsidy contract the Secretary determines will further the purposes and policies of this Act.

"(6) REPLACEMENT VESSEL.—A vessel which is a replacement for a vessel described in this subsection.

"SEC. 626. DEFINITIONS.

"For purposes of this title—

"(1) CONTRACT VESSEL.—'Contract vessel' means a vessel listed in a contract pursuant to section 623(a)(2).

"(2) CONTRACTOR.—'Contractor' means a person who is a party to a contract under this subtitle and any holding company, subsidiary, affiliate, associate, officer, director, agent, or executive of such person.

"(3) DOMESTIC LINER SERVICE.—'Domestic liner services' means service by a liner vessel between 2 or more places in the United States.

"(4) EXISTING CONTRACT—'Existing contract' means a contract entered into under this title before the date of the enactment of this subtitle.

"(5) LINER VESSEL.—'Liner vessel' means a vessel—

"(A) operated by a common carrier pursuant to an existing contract;

"(B) operated by a common carrier on a fixed, advertised schedule, carrying cargo in foreign commerce at regular, relatively frequent intervals; or

"(C) a vessel under charter to the United States which could otherwise be so operated.

"(6) QUALIFIED VESSEL.—'Qualified vessel' means a liner vessel that meets the requirements of section 625.

"(7) SECRETARY.—'Secretary' means the Secretary of Transportation.

"(8) SHIP YEAR.—'Ship year' means 350 days of operation of a qualified vessel in the foreign commerce of the United States, excluding periods of idleness or lay-up or of use of the vessel in domestic or intercoastal trade.

"(9) SUBSIDY CONTRACT.—'Subsidy contract' means a contract entered into or amended under this subtitle.

"(10) SUBSIDY PAYMENT.—'Subsidy payment' means payment made by the Secretary to a contractor for operations of the contractor under a subsidy contract.

"(11) UNITED STATES.—'United States' has the same meaning as in subtitle II of title 46, United States Code.

"(12) QUALIFYING VOYAGE.—Operation of a contract vessel shall constitute a qualifying voyage throughout the period during which the vessel is engaged in the carriage of cargo as a liner vessel in foreign commerce.".

SEC. 3. WAIVERS OF RESTRICTION ON OPERATION IN COASTWISE TRADE BY SUBSIDIZED OPERATORS.

Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1101 et seq.) is amended as follows:—

(1) CONFORMING CHANGE.—In subsection (a), the first and second paragraphs are designated as paragraphs (1) and (2), respectively.

(2) DISCLOSURE OF PROPOSED SERVICE.—Subsection (a)(1) (as redesignated by this section) is amended by striking "Act: *Provided,*" and all that follows through the end of the sentence and inserting the following:

"Act. Every application for permission under this section shall describe the nature and scope of the proposed domestic intercoastal or coastwise service. In considering the application, the Secretary shall consider the impact of the proposed service on the operations of existing services which are exclusively domestic.".

(3) PROCEDURE.—Section 805 is further amended by adding at the end the following:

"(3) A person applying for an operating-differential subsidy contract under this Act who is operating in the domestic coastal or intercoastal service on January 1, 1986, may continue that operation at the existing level of service.

"(4) The Secretary of Transportation shall publish in the Federal Register a notice of intent to operate in the coastwise trade within 7 days after—

"(A) a person operating a vessel in the coastwise trade makes an application for operating-differential subsidy; or

"(B) a person operating a vessel under an operating-differential subsidy contract makes an application for the operation of a vessel in the coastwise trade.

"(5) A person operating in the coastwise trade may protest an application for waiver of the requirements of this section by filing a notice of protest within 30 days after a notice of intent is published in the Federal Register pursuant to paragraph (4).

"(6) The Secretary shall deny an application under paragraph (3) if the Secretary finds that approval of the application will result—

"(A) in unfair competition with a person operating exclusively on that coastwise trade route who has filed a notice of protest under paragraph (5); or

"(B) in overtonnaging of that route. Overtonnaging is presumed if the Secretary finds that less than 85 percent of the capacity of vessels employed on the route was utilized in the year before the application was made.

"(7) The Secretary shall notify in writing any person whose application is denied, describing the reason for the denial.

"(8) A grant of permission shall be effective—

"(A) 60 days after the date notice is published under paragraph (4); or

"(B) if additional information or documentary material is requested under paragraph (9), 45 days after the date the Secretary receives—

"(i) the information and material; or

"(ii) the information and material as is available and a statement of the reasons for partial compliance.

"(C) The period specified in clause (B) may be extended only by the district court of the United States for the District of Columbia on an application of the Secretary under paragraph (9).

"(9) During the 60 day period described in paragraph (8)(A), the Secretary may request additional information and documentary material from a person filing an application or protest as the Secretary considers necessary to make determinations required by this subsection.

"(10) If a person filing an application or protest, or an officer, director, partner, agent, or employee of that person, fails to comply substantially with a request for submission of additional information or documentary material within the period specified in paragraph (8), the district court of the United States for the District of Columbia, at the request of the Secretary—

"(A) may order compliance;

"(B) shall extend the period specified in paragraph (8)(B) until there has been substantial compliance; and

"(C) may grant any other equitable relief that the court considers necessary or appropriate.

"(11) The burden of proof is on the person filing the notice of protest if—

"(A) the person making the application was engaged in the coastwise trade in calendar year 1986; and

"(B) the level of service provided by the applicant is not more than the applicant was providing in that year.".

SEC. 4. CONFORMING AMENDMENTS.

(a) Right of First Refusal.—Section 510(j) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), is amended by adding at the end the following:

"Notwithstanding section 503 and section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), before selling a qualified vessel (as that term is defined in section 625) to a person who is not a citizen of the United States, an operator shall offer the Secretary a right of first refusal to acquire the vessel for the National Defense Reserve Fleet. The Secretary shall exercise or waive such right within 30 days after the date on which the offer is made to the Secretary.".

(b) Coastwise Trade.—Section 605 is amended—

(1) by striking "(c)" and inserting "(c)(1)";

(2) in the first sentence of subsection (c)(1) (as redesignated by this Act)—

(A) by striking "after proper hearing of all parties that the service already provided by vessels of United States registry is inadequate" and inserting "that vessels documented under the laws of the United States provide less than 50 percent of that service"; and

(B) by striking "following public hearing, due notice of which shall be given to each operator serving such essential service,"; and

(3) by adding at the end the following:

"(2) For contracts entered into or amended under this title, the findings by the Secretary under paragraph (1) shall be made after the Secretary publishes a notice of application to operate a vessel in an essential service served by citizens of the United States where the operations applied for could be either in addition to an existing service or concern existing service. Interested persons shall be given a reasonable opportunity to file written statements on the findings required to be made by the Secretary under paragraph (1). The Secretary's findings shall include a concise explanation of the basis for the findings.".

SEC. 5. REGULATIONS.

(a) IN GENERAL.—The Secretary may issue rules to carry out this Act.

(b) FINAL RULES.—The Secretary shall prescribe final rules, regulations, and forms necessary to carry out this Act not later than 180 days after the date of the enactment of this subtitle.

(c) ABSENCE OF RULES.—The absence or pendency of any rules, regulations, and approved forms shall not prevent the Secretary from entering into or amending contracts under subtitle B of title VI of the Merchant Marine Act, 1936.

I

100TH CONGRESS
1ST SESSION

H. R. 3537

To improve the United States-flag merchant marine.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 1987

Mr. LENT (by request) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To improve the United States-flag merchant marine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Promotion Act of 1987".

SEC. 2. The Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101, et seq.), is amended by the addition of a new title XIV, as follows:

"TITLE XIV—UNITED STATES-FLAG LINER VESSELS

"SEC. 1401. As used in this title:

"(a) The term 'Secretary' means the Secretary of Transportation.

"(b) The terms 'Existing ODS Contract', 'Amended ODS Contract', and 'Grant Agreement' mean the definitions provided for these terms in section 905 of the Merchant Marine Act, 1936.

"(c) The term 'Holder' means a citizen of the United States that has entered into a Grant Agreement with the Secretary.

"(d) The term 'Contractor' means a citizen of the United States that has entered into an Amended ODS Contract with the Secretary.

"(e) The term 'feeder vessel' means either a foreign-flag or a United States-flag vessel owned or chartered by a Contractor or Holder that engages wholly in the carriage of cargo between foreign ports for the purpose of providing a transshipment or through transportation service in connection with the operation of vessels under the Contractor's Amended ODS Contract or the Holder's Grant Agreement.

"(f) The term 'Merchant Marine Act, 1936' means the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101, et seq.).

"SEC. 1402. (a) Within one year after the date of enactment of this title, the Secretary is authorized and directed to: (1) consider, and approve or disapprove, the application for a Grant Agreement for the payment of operating-differential subsidy for liner operations submitted by any citizen of the

United States who (A) owned or operated United States-flag liner vessels during the two years prior to enactment of this title and (B) commences subsidized operations within two years following the date of enactment of this title, or (2) upon application, or on the Secretary's own motion, offer an Amended ODS Contract to the holder of an Existing ODS Contract for liner operations. Notwithstanding any other law, all applications for a Grant Agreement shall be processed and, if appropriate, approved, and thereafter administered in accordance with procedures established in this title for Amended ODS Contracts.

"(b) Except as provided in section 1403(a)(2), commencing in the second year after the date of enactment of this title, no application for expansion of a Grant Agreement or an Amended ODS Contract pursuant to section 1403(a)(3) and section 1403(a)(4), shall be considered if the resulting ODS Program costs will exceed those associated with (1) Amended ODS Contracts entered into within one year after the date of enactment of this title, and (2) applications for Grant Agreements received and awarded within one year after such date of enactment.

"(c) No application for a Grant Agreement shall be approved by the Secretary unless the Secretary determines that (1) the operation of such vessel or vessels is required to meet foreign-flag competition and to promote the foreign commerce of the United States; (2) the applicant owns or leases, or can and will build or purchase or lease, a vessel or vessels of the size, type, speed, and number, and with the proper equipment required to enable the applicant to operate in subsidized service, in such manner as may be necessary to meet competitive conditions, and to promote foreign commerce; (3) any such vessels are less than twenty-five years of age, in class, and contain or will contain enhanced military features approved by the Secretary and the Secretary of the Navy; (4) the applicant has entered into an agreement to offer such vessel or vessels for enrollment in a sealift readiness program approved by the Secretary of Defense; (5) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of a vessel or vessels as to meet competitive conditions and promote foreign commerce; (6) the granting of the aid applied for is reasonably calculated to carry out effectively the purposes and policy of this Act; and (7) the proposed operations are economically sound and will represent prudent Federal expenditures.

"(d) Every application for an Amended ODS Contract or a Grant Agreement under the provisions of this title shall be accompanied by statements disclosing the names of all persons having any pecuniary interest, direct or indirect, in such application, or in the ownership or use of the vessel or vessels, and the nature and extent of any such interest, together with such financial and other statements as may be required by the Secretary. All such statements shall be under oath or affirmation and in such form as the Secretary shall prescribe. Any person who, in an application for financial aid under this title or in any statement required to be filed therewith, willfully makes any untrue statement of a material fact, shall be guilty of a misdemeanor.

"(e) No Amended ODS Contract or Grant Agreement for an operating-differential subsidy shall be made by the Secretary for the operation of a vessel or vessels to meet foreign competition, except direct foreign-flag competition, until and unless the Secretary shall determine that an operating-differential subsidy is necessary to meet competition of foreign-flag ships.

"SEC. 1403. (a)(1)(A) If the Secretary approves the application, the Secretary is authorized: (i) to enter into an Amended ODS Contract or a Grant Agreement with the applicant and (ii) to make payments pursuant to the Amended ODS Contract or Grant Agreement of operating-differential subsidy determined in accordance with the provisions of subsections (b) and (c) of this section, for the operation of such vessel or vessels in subsidized service for a period not exceeding ten years, and subject to such reasonable terms and conditions, consistent with this title, as the Secretary shall require to effectuate the purposes and policy of the Merchant Marine Act, 1936, including a performance bond with approved sureties, if such bond is required by the Secretary. Subsequent to the ten year period set forth herein, renewals of Amended ODS Contracts and Grant Agreements shall be in the form of Grant Agreements only, and shall be at the sole discretion of the Secretary under the criteria set forth in section 1402(c).

"(B) There are hereby authorized to be appropriated such sums as are necessary: (1) for the payment of operating-differential subsidy pursuant to a Grant Agreement, and (2) for the liquidation of obligations pursuant to an amended ODS Contract. Grant Agreements shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(C) Except as provided under section 1403(a)(2), the Amended ODS Contract or Grant Agreement shall provide that the number of ship years of subsidized operation, including those for United States-flag feeder vessels, shall not exceed the maximum number of ships owned or operated by the Contractor or Holder at any one time during the two year period preceding the date of enactment of this section, or twenty ship years of operation in any one year, whichever is less: *Provided,* That, vessels under charter to the United States and vessels constructed, to be constructed or reconstructed, or under construction or reconstruction pursuant to section 615, shall be eligible for participation under an Amended ODS Contract or Grant Agreement subject to the ship year caps set forth in this paragraph and in section 1403(a)(2). For the purpose of this title, a United States-flag feeder vessel may be crewed by United States personnel or mixed United States and foreign personnel. Such vessels shall be counted against the ship year caps on a proportional basis.

"(2) Any Contractor that, in the two-year period preceding the date of enactment, operated fewer than ten liner vessels under an operating-differential subsidy contract shall be entitled to additional ship-year authorizations, subject to a maximum of ten ship years of operation. Any Holder is limited to the number of ship years set forth in section 1403(a)(1)(C).

"(3) Subject to section 1408, after the date of enactment of this title, the ship year ceiling for any operator under an Amended ODS Contract or Grant Agreement may be increased through acquisitions of, mergers with, capital asset purchases from, an otherwise unrelated entity which at the time of acquisition, merger or purchase is a party to a Grant Agreement or Amended ODS Contract. The increase in the ship-year ceiling for any operator or operators resulting from the transactions set forth in this section shall be offset by an equal decrease in the ship-year ceiling for the other operator or operators that are party to the transaction.

"(4) Subject to section 1408, subsidized operators may sell or acquire ship year authorizations among themselves and others who would otherwise be eligible to receive operating-differential subsidy.

"(b)(1) Grant Agreements shall provide, except as the parties should agree upon a lesser amount, that the amount of the operating-differential subsidy for the operation of vessels in subsidized service shall equal the excess of the subsidizable wage costs of the United States officers and crews incurred in the operation under United States registry of the vessel or vessels covered by the Grant Agreement, over the estimated fair and reasonable cost of the same items of expense (after deducting therefrom any estimated increases in such items necessitated by features incorporated pursuant to the provisions of section 501(b)) if such vessel or vessels were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel or vessels covered by the Grant Agreement.

"(2) Amended ODS Contracts shall conform to the requirements set forth in subsection (b)(1): *Provided,* That, for a period of two years following the date of enactment of this section, the amount of operating-differential subsidy shall include, to the extent provided in Existing ODS Contracts, the fair and reasonable cost of insurance and maintenance and repairs not compensated by insurance, incurred in the operation under the United States registry of the vessel or vessels covered by the Amended ODS Contracts, over the estimated fair and reasonable cost of the same items of expense (after deducting therefrom any estimated increase in such items necessitated by features incorporated pursuant to the provisions of section 501(b)) if such vessel or vessels were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel or vessels covered by the Amended ODS Contracts.

"(c)(1)(A) For Amended ODS Contracts, until January 1, 1990, for the wage fiscal period commencing July 1, 1989, and ending June 30, 1990, subsidizable wage costs shall be determined for operating-differential subsidy purposes in accordance with the Existing ODS Contract previously held by a Contractor.

"(B) On January 1, 1991, for the wage fiscal period commencing July 1, 1990, and ending June 30, 1991, subsidizable wage costs for Amended ODS Contracts shall be the lesser of:

"(i) The actual cost, calculated on the basis of a per diem rate of expense, of all items of expense required through collective bargaining or other agreement, including payments required by law to assure old-age pensions, unemployment benefits, or similar benefits and taxes or other governmental assessments on crew payrolls.

"(ii) The actual cost, calculated on the basis of a per diem rate of expense of all items of expense in the most economical collective bargaining or other wage agreement or agreements negotiated or in effect during calendar year 1987, for established liner services, increased or decreased by the index described in subsection (c)(4) from January 1, 1987, to January 1, 1991. For newly established liner services, the most economical collective bargaining or other wage agreement or agreements shall be used. Such costs shall be determined by the Secretary after review of wage agreements concluded or in effect during 1987, whether such agreements be with a subsidized operator, an unsubsidized operator or the United States. Subsidizable wage costs so determined shall exclude the officers or members of the crew in excess of Coast Guard manning levels required for safe operations.

"(C) In subsequent years, subsidizable wage costs shall be the lesser of actual collective bargaining costs as of January 1 of such year or the subsidizable wage costs determined as of January 1, 1991, increased or decreased by the index described in subsection (c)(4) from January 1, 1991, to January 1 of the subsequent years.

"(2)(A) For Grant Agreements, on January 1 of the first year of subsidized operations, for the wage period commencing July 1 of the preceding year and ending June 30 of such year, subsidized wage costs shall be calculated in accordance with the formula provided in subsection (c)(1)(B).

"(B) In subsequent years, subsidizable wage costs for Grant Agreements shall be the lesser of the actual collective bargaining costs as of January 1 of such year, or the subsidizable wage costs determined as of January 1 of the first year of operation, increased or decreased by the index described in subsection (c)(4) from January 1 of the first year of operation to January 1 of subsequent years.

"(3) The Secretary shall determine the collective-bargaining costs on ships in subsidized operation as of January 1 of each year for the wage fiscal period beginning July 1 of the preceding year and ending June 30 of such year.

"(4) The Bureau of Labor Statistics shall compile the index referred to in subsections (c) (1) and (2). Such index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective-bargaining agreements with equal weight to be given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and to changes affecting employees in private nonagricultural industries other than transportation. Such index shall be based on the materials regularly used by the Bureau of Labor Statistics in compiling its regularly published statistical series on wage and benefit changes arrived at through collective bargaining. Such materials shall remain confidential and not be subject to disclosure.

"(d) Each foreign wage cost computation shall be made after an opportunity is given to the Contractor or Holder to submit in writing and in timely fashion all relevant data within his possession. In making the computation, the Secretary shall consider all relevant matter so presented and all foreign wage cost data collected at the request of or on behalf of the Secretary. Such foreign cost data shall be made available to an interested Contractor or Holder, unless the Secretary shall find that disclosure of the data will prevent the Secretary from obtaining such data in the future. In determining foreign manning for purposes of this section, foreign manning shall be determined as of January 1, 1991, for Contractors under an Amended ODS Contract, and January 1 of the first year of operation for Holders of a Grant Agreement. Thereafter foreign manning shall be redetermined every two years.

"(e) The subsidy shall be paid semimonthly upon certification by the Contractor or Holder that the subsidized vessels were in authorized service during the month.

"SEC. 1404. (a) Subject to the approval of the Secretary, nothing in the Merchant Marine Act, 1936, shall restrict the world-wide acquisition of any vessel operated or to be operated under a Grant Agreement or Amended ODS Contract. In the event such a vessel is constructed or reconstructed in a foreign shipyard, the following conditions shall apply:

"(1)(A) The vessel shall be a vessel constructed or reconstructed according to plans and specifications approved by the Secretary and the Secretary of the Navy, with particular reference to economical conversion into an auxiliary naval vessel or a vessel approved by the Secretary and the Navy Department as otherwise useful to the United States in time of national emergency; and (B) the owner of such a vessel shall agree to enter into a contract with the United States for the inclusion in such vessel of enhanced military features as approved by the Secretary and the Secretary of the Navy. The cost of such features shall be paid by the owner in an amount not exceeding 2 per centum of the contract price of the vessel constructed or reconstructed and any amounts exceeding 2 per centum of the contract price shall be paid by the Department of Transportation.

"(2) Any alterations, repairs, or rebuilding necessary to bring existing vessels that are acquired abroad into compliance with the requirements of part B of subtitle II of title 46, United States Code (relating to inspection and regulation of vessels) and regulations issued under that part, shall be performed in the United States.

"(b) Except as specifically provided, the provisions of title VI of the Merchant Marine Act, 1936, shall be applicable to bulk cargo vessels only, and shall not restrict the nonsubsidized operation of any liner vessel owned or operated by a Contractor or Holder, whether or not subject to an Amended ODS Contract or a Grant Agreement, or restrict the subsidized operation of any liner vessel under an Amended ODS Contract or a Grant Agreement.

"SEC. 1405. (a) No operating-differential subsidy shall be paid for the operation of any vessel on a voyage on which it engages in coastwise or intercoastal trade: *Provided, however,* That such subsidy may be paid on a round-the-world voyage or a round voyage from the west coast of the United States to a European port or ports or a round voyage from the Atlantic coast to the Orient which includes intercoastal ports of the United States or a voyage in foreign trade on which the vessel may stop at the State of Hawaii, or an island possession or island territory of the United States, and if the subsidized vessel earns any gross revenue on the carriage of mail, passengers, or cargo by reason of such coastal or intercoastal trade the subsidy payments for the entire voyage shall be reduced by an amount which bears the same ratio to the subsidy otherwise payable as such gross revenue bears to the gross revenue derived from the entire voyage. No vessel operating on the inland waterways of the United States shall be considered for the purposes of this title to be operating in foreign trade.

"(b) No operating-differential subsidy shall be paid for the operation of a vessel that is more than twenty-five years of age.

"SEC. 1406. Every Amended ODS Contract or Grant Agreement awarded under this title shall provide (1) that the amount of the payments to the Contractor or Holder shall be subject to review and readjustment from time to time, but not more frequently than once a year. If any such readjustment cannot be reached by mutual agreement, the Secretary, on the Secretary's own motion or on the application of the Contractor or Holder, shall determine the facts and make such readjustment in the amount of such payments; (2) that the compensation to be paid under it shall be reduced, under such terms and in such amounts as the Secretary shall determine, for any periods in which the vessel or vessels are laid up; (3) that if at any time the Contractor or Holder receiving an operating-differential subsidy claims that it cannot maintain and operate its vessels, with a reasonable profit upon its investment, and applies to the Secretary for a modification or rescission of its Amended ODS Contract or Grant Agreement to maintain such service, and the Secretary determines that such claim is proved, the Secretary shall modify or rescind such Amended ODS Contract or Grant Agreement and permit the Contractor or Holder to withdraw such vessels from service upon a date fixed by the Secretary, and upon the date of such withdrawal the further payment of the operating-differential subsidy shall cease and the Contractor or Holder be discharged from any further obligation under such Amended ODS Contract or Grant Agreement; (4) that the Contractor or Holder shall conduct its operations in subsidized service in an economical and efficient manner; and (5) that an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency.

"Sec. 1407. A Holder providing domestic liner services on the date of enactment of this title or a Contractor which on the date of enactment had express approval pursuant to section 805(a) of the Merchant Marine Act, 1936, under an Existing ODS Contract to provide domestic liner services, shall be entitled to provide such services in substantial accord with then existing services or, in the case of operators then under Existing ODS Contracts, provide service in substantial accord with such express approvals. Any additional domestic liner services by a Contractor or Holder hereunder shall be established only as permitted under section 805(a) of the Merchant Marine Act, 1936: *Provided, however,* That no such permission shall be required for vessels under construction in the United States for domestic liner service prior to January 1, 1986, to be developed as replacements for vessels operating in domestic liner service.

"SEC. 1408. No Amended ODS Contract or Grant Agreement or any interest therein shall be sold, assigned, or transferred, either directly or indirectly, or through any reorganization, merger, or consolidation, nor shall any agreement or arrangement be made by the Contractor or Holder whereby the maintenance, management, or operation of the vessel or vessels is to be performed by any other person, without the written consent of the Secretary. If the Secretary consents to such agreement or arrangement, the agreement or arrangement shall make provision whereby the person undertaking such maintenance, management, or operation agrees to be bound by all of the provisions of the Amended ODS Contract or Grant Agreement and of this title applicable thereto, and the rules and regulations prescribed pursuant to this title. If the Holder or Contractor shall voluntarily sell such contract or any interest therein, or make such assignment, transfer, agreement or arrangement whereby the maintenance, management, or operations of the vessel or vessels is to be performed by any other person without the consent of the Secretary, or if the operation of the vessel or vessels shall pass out of the direct control of the Holder or Contractor by reason of any voluntary or involuntary receivership or bankruptcy proceedings, the Secretary shall have the further right to modify or rescind the Amended ODS Contract or Grant Agreement without further liability thereon by the United States, and is hereby vested with exclusive jurisdiction to determine the purposes for which any payments made by him under such contract shall be expended.

"SEC. 1409. The Secretary shall withhold the payment of operating-differential subsidy while any Contractor or Holder therefor is in default in any payment due on account of any obligation due the United States, and shall apply the amount so withheld to the satisfaction of such debt.

"SEC. 1410. An operating-differential subsidy shall not be paid under authority of this title on account of the operation of any vessel which does not meet the following requirements: (1) the vessel shall be of steel or other acceptable metal, shall be propelled by steam or motor, shall be as nearly fireproof as practicable, and shall be documented under the laws of the United States, during the entire life of the Amended ODS Contract or Grant Agreement; and (2) the vessel shall be either a vessel constructed according to plans and specifications approved by the Secretary and the Secretary of the Navy, with particular reference to economic conversion into an auxiliary naval vessel, or a vessel approved by the Secretary and the Navy Department as otherwise useful to the United States in time of national emergency.

"SEC. 1411. (a) The Contractor or Holder, upon compliance with the provisions of this section, may as its sole remedy transfer to foreign registry the vessels covered by an Amended ODS Contract or Grant Agreement held by him, in the event that the United States cancels such contract or agreement without just cause. For the purposes of this section, the failure of Congress to appropriate funds shall be considered just cause. Any Contractor or Holder desiring to transfer any such vessel to foreign registry upon such cancellation shall file an application in writing with the Secretary setting forth its contention with respect to the lack of just cause or lawful grounds for such cancellation. The Secretary shall afford the Contractor or Holder an opportunity for a hearing within twenty days after such Contractor or Holder files written application therefor, and after the testimony, if any, in such hearing has been reduced to writing and filed with the Secretary, he shall, within a reasonable time, grant or deny the application by order.

"(b) If any such application is denied, the Contractor or Holder may obtain a review of the order of denial in the United States Court of Appeals for the District of Columbia, by filing in such court, within twenty days after the entry of such order, a written petition praying that the order of the Secretary be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court of the Secretary or any officer designated by him for that purpose, and thereupon the Secretary shall file in the court, the record upon which the order complained of was entered as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to determine whether such cancellation or default was without just cause, and to affirm or set aside such order. The judgment and decree of the court affirming or setting aside any such order of the Secretary shall be final.

"(c) No transfer of vessels to foreign registry under this section shall become effective until any indebtedness to the Government or to any citizen of the United States, secured by such vessels, has been paid or discharged, and until after the expiration of a ninety-day period from the date of final determination the Secretary may (1) with the consent of the Contractor or Holder purchase the vessels at cost to the Contractor or Holder plus cost of capital improvements thereon, less 4 per centum annual depreciation upon such vessel, and the actual depreciated costs of capital improvements thereon, or (2) reinstate the Amended ODS Contract or Grant Agreement and adjust or settle the default found by the Secretary or the court to exist.".

SEC. 3. Title III of the Merchant Marine Act, 1936, as amended, is amended by striking section 301(a) (46 App. U.S.C. 1131(a)), and redesignating the provisions in section 301(b) accordingly.

SEC. 4. Title VI of the Merchant Marine Act, 1936, as amended, is amended as follows:

(a) Section 601(a) (46 App. U.S.C. 1171(a)) is amended by striking from clause (1) the following: ", and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date.".

(b) Section 603(e) (46 App. U.S.C. 1173(e)), is amended to read as follows:

"(e) The subsidy shall be paid semimonthly upon the contractor's certification that the subsidized vessels were in authorized service during the month.".

(c) Section 603(f) (48 App. U.S.C. 1173(f)), is repealed.

(d) Section 606 (46 App. U.S.C. 1176), is amended to read as follows:

"SEC. 606. Every contract for an operating-differential subsidy under this title shall provide: (1) that the amount of the payments to the contractor shall be subject to review and readjustment from time to time, but not more frequently than once a year. If any such readjustment cannot be reached by mutual agreement, the Secretary of Transportation on the Secretary's own motion or on the application of the contractor, shall determine the facts and make such readjustment in the amount of such payments; (2) that the compensation to be paid under it shall be reduced, under such terms and in such amounts as the Secretary of Transportation shall determine, for any periods in which the vessel or vessels are laid up; (3) that if at any time the contractor receiving an operating-differential subsidy claims that he cannot maintain and operate his vessels, with a reasonable profit upon his investment, and applies to the Secretary of Transportation for a modification or rescission of his contract to maintain such service, and the Secretary of Transportation determines that such claim is proved, the Secretary of Transportation shall modify or rescind such contract and permit the contractor to withdraw such vessels from service, upon a date fixed by the Secretary of Transportation, and upon the date of such withdrawal the further payment of the operating-differential subsidy shall cease and the contractor be discharged from any further obligation under such contract; (4) that the contractor shall conduct his operations in subsidized service in an economical and efficient manner; and (5) that an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency.".

(e) Section 610 (46 App. U.S.C. 1180) is amended by—

(1) after the section number 610, inserting "(a)";

(2) in section 610(a)(1), striking the following: "shall be built in a domestic yard or shall have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date,";

(3) in section 610(a)(2) inserting "(i)" after the "Act";

(4) at the end of section 610(a)(2), striking "emergency.", and inserting the following: "emergency; and (ii) the owner of such a vessel shall agree to enter into a contract with the United States for the inclusion in such vessel of enhanced military features. The cost of such features shall be paid by the owner in an amount not exceeding 2 per centum of the contract price of the

vessel construction, and any amount exceeding 2 per centum of the contract price shall be paid by the Department of Transportation."; and

(5) adding a subsection (b) as follows:

"(b) any alterations, repairs, or rebuilding necessary to bring existing vessels that are acquired abroad into compliance with the requirements of part B of subtitle II of title 46, United States Code (relating to inspection and regulation of vessels) and regulations issued under that part, shall be performed in the United States.".

SEC. 5. Title VIII of the Merchant Marine Act, 1936, as amended, is amended as follows:

(a) Section 801 (46 App. U.S.C. 1211) is amended by striking "title VI or VII" and inserting "title VI, VII or XIV.".

(b) Section 804 (46 App. U.S.C. 1222) is amended to read as follows:

"SEC. 804. (a) Except as provided in subsections (b) and (c) of this section, it shall be unlawful for any contractor receiving an operating-differential subsidy under title VI, or a Contractor or Holder under title XIV, or for any charterer of vessels under title VII of this Act, or any holding company, subsidiary, affiliate, or associate of such contractor or such charterer, or any officer, director, agent, or executive thereof, directly or indirectly to own, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American-flag service: *Provided,* That nothing in this section shall preclude a Contractor under an Amended ODS Contract or the Holder of a Grant Agreement, or any holding company, subsidiary, affiliate or associate of such contractor, or any officer, director, agent, or executive thereof, to (1) enter into space charter agreements with foreign-flag liner carriers, (2) act as agent or broker for a foreign-flag vessel or vessels which would otherwise come within provisions of this section, or (3) own, charter, or operate any foreign-flag vessel that is operated as a feeder vessel for a United States-flag liner service under a Grant Agreement or Amended ODS Contract: *Provided, however,* That the TEU capacity of such foreign-flag feeder vessels shall not exceed the TEU capacity of the vessels included in the operator's United States-flag line-haul operations.

"(b) Under special circumstances and for good cause shown, the Secretary of Transportation may, in his discretion, waive the provisions of subsection (a) of this section for a specific period of time.

"(c) Upon application to the Secretary of Transportation the provisions of subsection (a) of this section shall not apply to the following specified activities of any contractor under title VI or those in the foregoing specified relationship to him, who was not such a contractor on April 15, 1970, and who shall have compiled with the requirements set forth in subsection (d) of this section: Until April 15, 1990—

"(1) the continued ownership, charter, or operation of a foreign-flag vessel engaged in the carriage of dry or liquid cargoes in bulk which was owned, chartered, or operated by such contractor, or those in the foregoing specified relationship to him, on April 15, 1970; and

"(2) the continued acting as agent or broker for a vessel described in subsection (c)(1) of this section which is owned, chartered, or operated by such contractor, or those in the foregoing specified relationship to him, and for which such contractor, or those in the foregoing specified relationship to him, were acting as agent or broker on April 15, 1970.

"(d) No contractor under title VI, whether he shall have become such a contractor before or after October 21, 1970, shall avail himself of the provisions of subsection (c) of this section unless not later than ninety days after October 21, 1970, there shall have been filed with the Secretary of Transportation a full and complete statement, satisfactory in form and substance to the Secretary, of all foreign-flag vessels which he, or those in the foregoing specified relationship to him directly or indirectly owned, chartered, acted as agent or broker for, or operated on April 15, 1970.

"(e) During the period of time provided for in subsection (c) of this section, the Secretary of Transportation shall include in the annual report pursuant to section 208 of this Act, a report on the activities of contractors under such subsection, including but not limited to, the nature and extent of such activities, its effect, if any, upon carrying forward the national policy declared in section 101 of this Act; and the Secretary's recommendations for legislation, if such is deemed to be necessary.".

(c) Section 805 (46 App. U.S.C. 1223) is amended:

(1) In subsection (a), by striking "title VI", and inserting "title VI or title XIV".

(2) In subsections (b) and (d), by striking "title VI or title VII", and inserting "title VI, title VII or title XIV."

(d) Section 806(c) (46 App. U.S.C. 1228) is amended by striking "titles V and VI", and inserting "titles V, VI and XIV."

(e) Section 807 (47 App. U.S.C. 1225) is repealed, and the following inserted:

"Sec. 807. If a vessel subsidized under title VI or XIV earns any gross revenue on the carriage of either (i) cargoes reserved to privately owned United States-flag commercial vessels by reason of the Cargo Preference Act of 1904 (10 U.S.C. 2631), or (ii) cargoes at premium rates that are reserved to privately owned United States-flag commerical vessels by reason of Public Resolution 17 (46 App. U.S.C. 1241–1) or sections 901(b) and 901b of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1241(b), 1241b), the owner shall repay annually to the Secretary that portion of operating-differential subsidy attributable to the carriage of these reserved cargoes which bears the same ratio to the subsidy payable for the year as the gross revenue on the carriage of these reserved cargoes bears to the gross revenue derived from all subsidized voyages for the year. This section shall be implemented by the Secretary of Transportation upon such terms and conditions as the Secretary may prescribe.".

(f) Section 808 (46 App. U.S.C. 1226) is amended by striking "title VI" and inserting "title VI or XIV.".

(g) Section 810 (46 App. U.S.C. 12127) is repealed.

Sec. 6. Title IX of the Merchant Marine Act, 1936, as amended, is amended as follows:

(a) Section 901(b)(1) (46 App. U.S.C. 1241(b)(1)) is amended as follows:

(1) by striking "in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographical areas," and inserting "in such manner as will insure an equitable participation of United States-flag commercial

vessels in such cargoes under such terms and conditions as the Secretary, after consultation with the other affected agencies, may prescribe"; and

(2) the last sentence is amended to read as follows: "For purposes of this section, the term 'privately owned United States-flag commercial vessels' shall not be deemed to include any vessel constructed outside the United States that is registered under the United States flag as follows: (A) unless the Secretary of Transportation finds such vessel to be not more than five years of age on the date of registry under the United States flag, or (B) unless the Secretary of Transportation finds such vessel to be more than five years of age but less than ten years of age on the date of registry under the United States flag, and upon consultation with the Secretary of Defense, determines that the particular vessel is suitable for national defense or security purposes, or (C) if otherwise more than five years of age on the date of registry under the United States flag, until such vessel shall have been documented under the laws of the United States for a period of three years.".

(b) Section 903 (39 Stat. 2016) is repealed.

(c) Section 905 (46 App. U.S.C. 1244);

(1) in subsection (c), by striking "title VI" and inserting "titles VI and XIV", and

(2) by the addition of the following subsections:

"(h) The term 'Existing ODS Contract' shall mean a contract between the Secretary of Transportation and a citizen of the United States for the payment of operating-differential subsidy that was entered into pursuant to section 603 of this Act prior to the date of enactment of this subsection.

"(i) The term 'Amended ODS Contract' shall mean a contract between the Secretary of Transportation and a citizen of the United States for the payment of operating-differential subsidy for liner operations that was entered into prior to the date of enactment of this subsection, and amended pursuant to section 1403 of this Act within one year subsequent to the date of enactment of this subsection.

"(j) The term 'Grant Agreement' shall mean an agreement between the Secretary of Transportation and a citizen of the United States not a party to an Existing ODS Contract, for the payment of operating-differential subsidy for liner operations that was entered into pursuant to section 1403 of this Act within one year subsequent to the date of enactment of this subsection."

(d) Section 907 (46 App. U.S.C. 1246) is repealed.

(e) By the addition of a section 910 as follows:

"SEC. 910. One year after the date of enactment of this Act, all existing operating-differential subsidy contracts for liner operations shall expire, and it shall be unlawful for any officer of the United States to pay from any public funds any operating-differential subsidy for liner operations other than to a Holder of a Grant Agreement or a Contractor under an Amended ODS Contract: *Provided,* That, subsidy shall be payable under an Existing ODS Contract for voyages in progress but not completed on the date of expiration.".

SEC. 7. The provision of law set forth in sections 1241(b)(1), 1241–1, and 1241f of title 46, Appendix, United States Code, requiring the use of United States-flag vessels shall be deemed fulfilled, as to the total of any shipment other than those of the Department of Defense covered by section 2631 of title 10, United States Code, if the actual ocean transportation of each shipment for which the United States-flag carrier has issued its own through bill-of-lading between the original port of lading and the port of final discharge, consists of transportation of the cargo by a combination of United States and foreign-flag vessels. The use of foreign-flag vessels shall be as authorized by the Secretary of Transportation under such terms and conditions as the Secretary shall determine.

I

100TH CONGRESS
1ST SESSION

H. R. 3808

To amend the Merchant Marine Act, 1936.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 1987

Mr. JONES of North Carolina (by request) (for himself, Mr. BIAGGI, Mr. ANDERSON, Mr. DAVIS of Michigan, and Mr. LENT) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To amend the Merchant Marine Act, 1936.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. This bill may be cited as the "1987 Amendments to the Merchant Marine Act, 1936".

SEC. 2. The second sentence of section 601(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171(a)) is amended by inserting immediately before the period the following: ", or the operation of a liner vessel in international trade: *Provided, however,* That, for a period of three years after the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936, all applications for contracts and amendments to contracts for the operation of liner vessels shall specify and be limited to routes as provided for in rules and regulations in effect on such date of enactment. Following such three-year period, no contracts shall be subject to any geographic restrictions or limitations on the performance of subsidized services.

SEC. 3. Section 602 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1172) is amended by striking "a vessel" and inserting in lieu thereof "a bulk vessel".

SEC. 4. Section 610 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1180) is amended—

(1) by inserting "(a)" immediately before "An operating-differential subsidy"; and

(2) by adding at the end the following:

"(b) Notwithstanding any other provision of law, any liner vessel over five thousand dead-weight tons documented under the laws of the United States and owned by a citizen of the United States and operated by a citizen of the United States shall be deemed to have been built in the United States (regardless of where actually constructed, reconstructed, or modified on any prior or subsequent date) for the purposes of this title (except section 607), and sections 901(b) and 901a through 901k of this Act.".

SEC. 5. Sections 805(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1223(a)) is amended—

(1) by striking the colon and inserting in lieu thereof the following: ". Applications for written permission shall disclose the nature and scope of operations proposed to be conducted in domestic intercoastal or coastwise service. In a hearing under this subsection, the Secretary of Transportation shall consider the impact of a grant of written permission on the operations of persons, firms or corporations operating exclusively in domestic intercoastal or coastwise service. A grant of written permission shall establish such contract terms and conditions as the Secretary determines necessary to ensure that the proposed operations will not (1) result in unfair competition to any person, firm or corporation operating exclusively in domestic intercoastal or coastwise service; (2) be prejudicial to the objects and policy of this Act; or (3) result in diversion, directly or indirectly, of any moneys, property, or other thing of value, used in foreign trade operations, for which a subsidy is paid by the United States, into any domestic intercoastal or coastwise operations. The provisions of this section shall be applicable to applications for written permission which have not been approved by the Secretary prior to the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936. The Secretary shall issue a final decision regarding any

applications to which this section applies not later than 15 months after the application is filed or 13 months after such date of enactment, whichever is later, and shall establish reasonable time limits for subordinates to reach initial decisions in order to ensure that final decisions are issued by the Secretary by the time specified in this sentence:"; and

(2) by inserting immediately before the period at the end the following: ": *And provided further,* That if a contractor or any affiliate or associate of such contractor was on or before the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936, in bona fide operation of tug and barge services within the Mississippi and Ohio River systems, their navigable tributaries, the Illinois River (including navigable industrial canals and contiguous harbor service from and in Chicago to Burns Harbor), the Gulf Intercoastal Waterway from Brownsville, Texas to Saint Marks, Florda, its harbors and continguous navigable streams and waterways, the Tennessee-Tombigbee Waterway, and the Warrior River System and its navigable tributaries, such services shall be automatically approved, subject only to those geographic limitations, without hearings and simultaneously with the award of subsidy

to such contractor under the authority of title VI of this Act".

SEC. 6. Section 905 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1244) is amended by adding at the end the following:

"(h) The term 'international trade' means foreign commerce, and commerce between two or more foreign countries.

"(i) The term 'liner vessel' means a vessel operated by a common carrier on a definite, advertised schedule, giving relatively frequent sailings at regular intervals carrying cargo in international trade.".

ONE HUNDREDTH CONGRESS

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March 16, 1988

TO: SUBCOMMITTEE ON MERCHANT MARINE

FROM: Majority and Minority Staff

SUBJECT: Hearings on Promotional Legislation
H.R. 1088 (Mr. Biaggi)
H.R. 2462 (Mr. Jones and Mr. Anderson)
H.R. 3297 (Mr. Davis)
H.R. 3537 (Administration bill introduced by Mr. Lent, by request)
H.R. 3808 (Sea-Land/Lykes/American President Lines bill introduced by Mr. Jones, Mr. Biaggi, Mr. Anderson, Mr. Davis, and Mr. Lent, by request)

INTRODUCTION

On Thursday, March 17, 1988 at 10:00 a.m. and on Wednesday, March 30 at 2:00 p.m., the Subcommittee on Merchant Marine will hold hearings on legislation to assist the operators of U.S.-flag vessels. Witnesses at the March 17 hearing will include the Commission on Merchant Marine and Defense and representatives of U.S.-flag liner operators. At the March 30 hearing, we will hear from representatives of the Maritime Administration (Department of Transportation), Department of Defense, United States Postal Service, and the Shipbuilders Council of America. There will be a third day of hearings in April with witnesses representing maritime labor, the American Institute of Merchant Shipping, Matson Navigation, and perhaps others tangentially affected by the legislation.

The issues presented by the legislation under consideration have been placed in bold relief by the Commission on Merchant Marine and Defense. In its first and second reports, the Commission indicated the need for immediate action on this and other areas of concern if the United States is to be capable of providing the necessary resources in time of war or national emergency. The Commission indicated that there are current shortfalls in vessel and manpower numbers -- as well as dangerous shortages in the shipbuilding mobilization base. It made a number of recommendations, specifying ODS reforms and shipyard support programs.

The major contentious issues presented by the bills under consideration are whether subsidized operators should be permitted to obtain vessels on the world market, whether operators should be given more operating flexibility, what effect the proposed reforms would have on other operators and the shipbuilding industry, and if reform can be accomplished within current budgetary constraints.

All the bills would allow at least some foreign acquisition of vessels and would permit currently unsubsidized operators to receive ODS.

BACKGROUND

Foreign Acquisition

The construction-differential subsidy (CDS) program established by the Merchant Marine Act, 1936 provides funds to pay for the higher cost of construction in a U.S. shipyard -- not to exceed 50 percent of the total construction cost. By the late 1970's, the cost difference between ship construction in the United States and overseas had, for some vessel types, exceeded the 50 percent cap so that CDS payments no longer accomplished the goal of equalizing U.S. and foreign shipbuilding costs.

The Reagan Administration has never requested funds for CDS. Congress has neither authorized nor appropriated funds for CDS since 1981. In 1981, Congress added a new provision to the Merchant Marine Act (section 615) as part of P.L. 97-35, the Omnibus Reconciliation Act of 1981, which permitted the Secretary of Commerce to authorize carriers receiving ODS to acquire vessels overseas during a one-year period ending September 30, 1982. (Section 615 was enacted prior to the transfer of the Maritime Administration to the Department of Transportation.)[1]

Under this waiver, 10 carriers received permission to acquire 34 vessels overseas and to convert 13 vessels.

Under P.L. 98-151, approved November 14, 1985, Lykes acquired four ships constructed overseas (from Hapag Lloyd) and American President Lines (APL) acquired two ships constructed overseas (from Neptune Orient).

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[1] The provision could be used for fiscal year 1983 only if the President budgeted $100 million for CDS or an equivalent alternate program. Since no CDS funds for fiscal year 1983 were requested and no equivalent shipbuilding program was proposed, section 615 was operative only during fiscal year 1982.

In both the 98th and 99th Congresses, the Administration proposed legislation to permit subsidized operators to obtain vessels overseas, but neither of those bills required the payment of subsidy on these vessels. As a matter of stated policy (by the Maritime Administrator), the Administration has not granted, and does not intend to grant, any new ODS contracts -- despite the fact that current law would not bar MARAD from entering into new ODS contracts. This policy decision effectively bars unsubsidized operators (like Sea-Land) from the ODS program. At the same time, currently subsidized operators have argued that, if they must continue to procure vessels in U.S. yards at over twice the cost of foreign-built vessels, they will be unable to compete with foreign operators. This dichotomy between subsidized and unsubsidized U.S. operators has been a major factor in the inability to develop any single-focus proposal to extend build-foreign authority.

The proposals to permit foreign acquisition have, additionally, been opposed by U.S. shipyards. Shipyard opposition is motivated by both national defense concerns and financial interests. As recently as last week, a representative of the Shipbuilders Council of America declared that shipyards would oppose any build-foreign proposal unless the plight of the shipyards was addressed first. The defense concerns were highlighted by the recent report of the President's Commission on Merchant Marine and Defense. While, currently, some unsubsidized operators would support foreign acquisition if the subsidy program were opened to them, the shipyards would continue to oppose any untempered build-foreign authority.

With the exception of H.R. 3297 (Davis), all the bills permit the relatively easy acquisition of foreign-built vessels. A principal goal of H.R. 3297 is to preserve the U.S.-built requirement; however, the bill would permit foreign acquisition under certain circumstances. None of the bills provide direct assistance for U.S. shipyards.

Existing ODS Contracts

Under the Merchant Marine Act, 1936, an operator of U.S-flag vessels meeting certain criteria may apply for a 20-year ODS contract. The Secretary of Transportation then has discretion to grant or deny a contract. ODS provides funds equal to the higher cost of maintenance and repair, insurance, and wages for U.S.-flag operators vis-a-vis their foreign competitors, with the intent of enabling U.S. operators to compete on an equal footing. There are four U.S. operators (APL, Lykes, Farrell, and Waterman) that receive subsidy. Two operators (United States Lines and Prudential) were under the ODS program but are in reorganization under Chapter 11 of the Bankruptcy Code; they are not receiving subsidy payments. Sea-Land could theoretically receive subsidy for some of its vessels. In 1987, Sea-Land purchased some of the assets of United States Lines, and Sea-Land could request that the Administration pay subsidy on ships providing service on routes previously served by USL.

Following is a list provided by the Maritime Administration (MARAD) of subsidized operators and the date their ODS contracts expire:

APL	December 31, 1997
Farrell	December 31, 1995
	December 31, 2000
Lykes	December 31, 1998
Prudential[2]	December 31, 1997
U.S. Lines, Inc.[3]	June 29, 1987
U.S. Lines S.A., Inc.[4]	December 31, 1994
	December 31, 1995
	December 31, 1997
Waterman	June 3, 1991

The liner operators that receive no subsidy are Sea-Land, Crowley, Central Gulf Lines, and Coordinated Caribbean Transport.

Some Issues Regarding Subsidy Reform

Two questions facing Congress are whether subsidy should be extended to operators currently excluded and the manner of such extension, and should the nature of the Government's obligation for future contracts be different from those currently in effect.

Under all the bills, subsidy could be extended to currently unsubsidized operators. They differ in the degree of discretion by the contracting agency in contract execution, as well as the duration of the obligation incurred by the Government. Only H.R. 1088 (Biaggi) and H.R. 2462 (Jones) provide a mechanism for newly created companies to enter the program.

An important concern of the operators is the ability to make long-term plans based on predictable Government subsidy payments. The current program offers some measure of stability, since it employs long-term contracts that are legally binding obligations of the Government. H.R. 1088 (Biaggi), H.R. 3297 (Davis), and H.R. 3808 (Sea-Land/Lykes/APL) continue the use of binding contracts. However, variations in Secretarial discretion as to length of a contract might mitigate the effectiveness of the binding obligation. H.R. 3537 (Administration) makes payments subject to Congressional appropriations. If Congress fails to appropriate funds, then an operator would have no remedy. However, if funds are appropriated and the Administration fails to make payment, then the only remedy available is to flag out.

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[2] In Chapter 11 bankruptcy, so not receiving subsidy.

[3] In Chapter 11 bankruptcy, so not receiving subsidy. Sea-Land bought the U.S. Lines, Inc. contract; so, even though the subsidy contract has expired, the contract is important because Sea-Land is grandfathered into routes served by U.S. Lines, Inc.

[4] These contracts were purchased by Sea-Land; so, if Sea-Land were to begin receiving subsidy, payments would cease on these dates.

Cost of Operating-Differential Subsidy

For fiscal year 1989, the Administration has requested $248.9 million for ODS for both liner and bulk vessel operators. The Administration has estimated that enactment of its proposal would require additional appropriations of $26.39 million -- for a total cost of $275.29 million. In its Views and Estimates Report, the Committee maintains that the amount requested by the Administration would be insufficient to provide adequate subsidy. The legislation under consideration only addresses subsidy for liner trades, which is expected to be $178.1 million in fiscal year 1988. In 1988, $250.3 million was authorized for ODS -- with approximately $178.1 million for liner operators. Below is a listing of outlays for ODS since 1982:

1982 - $400.7 million ($354.8 million for liner operators)
1983 - $368.2 million ($320.1 million for liner operators)
1984 - $384.3 million ($333.5 million for liner operators)
1985 - $351.7 million ($299.0 million for liner operators)
1986 - $287.8 million ($252.1 million for liner operators)
1987 - $227.4 million ($199.5 million for liner operators)

As the contracts of the various carriers expire (see the above description of Existing ODS Contracts), outlays for ODS will decrease. MARAD estimates its potential liability under existing ODS contracts to be around $1.6 billion (constant dollars, assuming no improvement in industry; costs would be higher if industry improves).

The ODS program is not subject to Gramm-Rudman-Hollings cuts, since the subsidy is paid pursuant to a contractual obligation of the Government.

Elements of Subsidy - Ways to Reduce Costs

Under the current program, subsidy is paid to offset the higher U.S. costs of maintenance and repair, insurance, and wages (including fringe benefits).

Industry observers have criticized the cost of subsidy. Except for H.R. 2462 (Jones) -- which adopts a new method of calculating payments, all the bills would continue subsidy payments based on higher U.S. cost of operation. These bills eliminate two elements of subsidy (insurance and maintenance and repair) but still pay subsidy for crew costs -- which represent approximately 85 percent of subsidy expenditures.

There are two broad issues related to crew subsidy that generate criticism. Both are related to the current law's dependence on the collective bargaining agreement as the determinant of wage costs (section 603, Merchant Marine Act, 1936). First, critics charge that subsidized vessels have an unnecessary number of crewmembers and that comparable foreign-flag vessels operate with smaller crews. The second criticism is that subsidized vessel operators provide unreasonable pay and fringe benefits to crewmembers.

MARAD has provided the following breakdown of how much of the wage subsidy is attributable to various benefits:

23 percent - base wages
22 percent - vacation
21 percent - overtime
10 percent - pension
8 percent - welfare programs, medical plans, etc.
4 percent - contribution to fringe benefits for vacation days
2 percent - non-watch allowance
1 percent - IRA contributions and others
1 percent - training
1 percent - research groups; e.g., Transportation Institute, Maritime Institute for Research and Industrial Development, Joint Maritime Congress
7 percent - miscellaneous

Critics also argue that unsubsidized operations have lower costs. For example, at a Subcommittee hearing in 1986, a witness testified that on a U.S. Government-subsidized cargo vessel an able-bodied seaman made $5,962 -- but that on an unsubsidized U.S.-flag car carrier the wage package was $3,607 (lower than the wages on a Japanese ship which amount to $3,798). Critics also point to the six-month vacation period on subsidized vessels as contrasted with three-month vacations on unsubsidized and foreign-flag vessels.

H.R. 1088 (Biaggi) and H.R. 3808 (Sea-Land/Lykes/APL) maintain the existing system of computing wage subsidy based on the actual difference in cost of operation between U.S.-flag vessels and their competitors. H.R. 3297 (Davis) and H.R. 3537 (Administration) would subsidize the difference between the wages paid by the lowest paying U.S. operator and the foreign competition.[5]

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[5] H.R. 3297 (Davis) would not include vessels under Government contracts when determining the lowest paying U.S. operator, while H.R. 3537 (Administration) would.

H.R. 2462 (Jones) adopts a radically different method for calculating payments. Under the Jones bill, payments to operators would equal the total of: (1) the average (based on the last 20 vessels acquired) cost of acquiring and preparing for break-out a ship in the Ready Reserve Fleet (RRF); (2) average annual cost of maintaining a vessel in the RRF; and (3) the annual cost of training personnel for an RRF vessel.

Since H.R. 2462 (Jones), H.R. 3297 (Davis), and H.R. 3537 (Administration) would all pay operators less than the actual wage difference, it is anticipated that they would lead to tougher collective bargaining. Accordingly, this is a major concern of maritime labor and management.

Trade Route Liberalization

Subsidy payments under the Merchant Marine Act, 1936 are restricted to ships used in the essential service of the United States, as provided by section 211.[6] On March 8, 1985, the Maritime Administration published a notice in the FEDERAL REGISTER (50 C.F.R. 9532),[7] proposing a reduction in the number of trade routes from 33 to 8. According to MARAD, prior to this action there had been no substantial changes in the essential trade route description since 1936.

The stated goal of the MARAD proposal is to increase operators' flexibility and reduce 605(c) hearings. A 605(c) hearing may be held when a subsidized operator seeks to provide service on a route on which another U.S.-flag operator is already providing service. In this situation, the established operator may request a hearing under section 605(c) of the Merchant Marine Act. It is alleged that the legal costs and delays involved in a 605 hearing discourage new entrants and give the established operator an unfair ability to maintain a monopoly on the route.

Supporters of the current trade route system argue: (1) it is still important to maintain a U.S. presence on certain routes; (2) it is unfair to allow a new operator to come in and skim business after another U.S. operator has invested the time and funds servicing that route; and (3) it is not cost effective to subsidize competitors on the same route. It should be noted that some unsubsidized operators are already competing on essential trade routes; therefore, it can be said that the unsubsidized operator also has a substantial investment in the route. Some operators say they might be driven out of business if all protections associated with the trade route system were eliminated.

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[6] Section 211 provides that the Secretary of Transportation shall keep records of: "The ocean services, routes, and lines...which are, or may be, determined by the Secretary of Transportation to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States, and in reaching his determination the Secretary of Transportation shall consider and give due weight to the cost of maintaining each of such steamship lines,...with the added consideration, however, of the intangible benefit the maintenance of any such line may afford to the foreign commerce of the United States, to the national defense, and to other national requirements;"

[7] Technically, there are currently 28 trade routes and 5 trade areas. The trade areas encompass trade through the Great Lakes.

The Maritime Administration published a final trade route rule on May 12, 1987 (52 C.F.R. 17879). The rule has been applied only to section 211 and has not been applied to 605 hearings, so it has failed to provide operational flexibility.

Each of the bills under consideration would virtually eliminate the trade route system. H.R. 1088 (Biaggi) and H.R. 2462 (Jones) would require operators remaining under the current system to continue to serve (exclusively) essential trade routes. Under these bills, operators in the new system -- competing on trade routes served by operators remaining in the current program -- would be basically restricted to the level of service they provided before entering the new system. H.R. 3808 (Sea-Land/Lykes/APL) would eliminate all trade routes after three years.

Use of Foreign-Flag Vessels

Foreign-flag feeders are generally used to carry cargo to and from foreign ports. Proponents of foreign-flag vessels argue that this increases U.S.-flag operational flexibility and will lead to more profitable operation. The opponents assert that one operator's "feeder" ship may be in head-to-head competition with another operator in the U.S.-foreign commerce.

Under current law, subsidized owners are generally prohibited from owning foreign-flag vessels; however, MARAD has granted waivers of this prohibition for good cause -- following a section 605 hearing under the Merchant Marine Act, 1936. H.R. 3297 (Davis) and H.R. 3808 (Sea-Land/Lykes/APL) would continue the current system. H.R. 3537 (Administration) and H.R. 1088 (Biaggi) would permit a limited number of feeder vessels.[8] H.R. 2462 (Jones) generally prohibits foreign-flag feeders, unless appropriations are unavailable for U.S.-flag feeder operations.

Enc

cc: Members, Committee on Merchant Marine and Fisheries

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[8] H.R. 1088 would permit a subsidized operator to own twice as many feeder vessels as subsidized vessels. H.R. 3537 would permit feeder vessels as long as their cpacity does not exceed that operator's U.S. line haul capacity.

March 16, 1988 9:26 AM(#131LCS)

COMPARISON OF OPERATING-DIFFERENTIAL SUBISDY (ODS) BILLS
100th Congress

	H.R. 1988 Rep. Biaggi	H.R. 2462 Rep. Jones	H.R. 3297 Rep. Davis	H.R. 3537 Rep. Lent (by request of Administration)	H.R. 3808 Rep. Jones (by request of Lykes, Sea-Land, and American President Lines)
Title	Merchant Marine Equity Act	Maritime Auxiliary Sealift and Training Act of 1987 (MAST)	Vessel Operating Differential Subsidy Act of 1987	Maritime Promotion Act of 1987	1987 Amendments to the Merchant Marine Act, 1936
Eligibility to participate in program (See also Vessel Requirements on page two.)	SEC. 601 Applicant has vessel that can meet competitive conditions; and applicant has ability and resources to conduct proposed operations.	SEC. 202(a)(A)-(B) Applicant has vessel that can meet competitive conditions; and applicant has ability and resources to conduct proposed operations.	SEC. 621 The person must be a citizen of the United States and: 1) have operated a U.S.-flag liner vessel in the foreign commerce in 1986; or 2) proposes operation of a qualified vessel that the Secretary determines will further the purposes and policies of that Act.	SEC. 1402(a) Must have existing ODS contract or owned or operated U.S. liner vessel during the 2 years before the date of enactment.	Same as existing law.

	H.R. 1068 Rep. Biaggi	H.R. 2462 Rep. Jones	H.R. 3297 Rep. Davis	H.R. 3537 Rep. Lent (by request of Administration)	H.R. 3808 Rep. Jones (by request of Lykes, Sea-Land, and American President Lines)
Vessel Requirements	SEC. 603(b) • Engaged in foreign commerce • suitable for national defense • documented in the U.S. • owned or chartered by a U.S. citizen • at least 5,000 dwt. • less than 25-years old.	SEC. 202(a)(1)(C)-(G) • Engaged in foreign commerce • offered and accepted in sealift readiness program • documented in the U.S. • will not be under ODS contract when under MAST contract • at least 5,000 dwt.	SEC. 625 • Built in U.S., or covered by certain broad exceptions • self-propelled • as nearly fireproof as practicable • over 5,000 dwt • documented in the U.S. • less than 25-years old.	SEC. 1402(c) • Must be able to meet competitive conditions • less than 25-years old • contains enhanced military features • offered for enrollment in a sealift readiness program.	SEC. 3 • over 5,000 dwt • owned and operated by a citizen of the U.S.
Mandatory or discretionary authority to enter into contracts	SEC. 601(b) Mandatory.	SEC. 202(a) Mandatory when identified strategic sealift needs have not been met; discretionary after those needs have been met.	Mandatory for Secretary to enter into new contract; Secretary may refuse to amend existing contracts.	SEC. 1402(a) Discretionary authority for Secretary to enter into contract.	Existing law.
Length of contracts	SEC. 603(b)(4) Max. length - Supt. 30, 1998.	SEC. 202(c) Between 5 and 20 years.	SEC. 623(a)(7) 10 years from date of enactment or shorter.	SEC. 1403(a)(1)(A) 10-year contract limit; after that, it is renewable at discretion of the Secretary.	Existing law.
Appropriations and legal obligatiun	Existing law.	Entering into contract subject to Appropriations laws. Contracts constitute legal obligations of the United States.	SEC. 620(d) Entering into or amending contract is not subject to Appropriations laws and constitutes a legal obligation of the United States.	SEC. 1403(a)(1)(B) Authorizes appropriations. Contracts are effective only to the extent that amounts are provided in Appropriations laws.	Existing law.

	H.R. 1088 Rep. Biaggi	H.R. 2462 Rep. Jones	H.R. 3297 Rep. Davis	H.R. 3537 Rep. Lent (by request of Administration)	H.R. 3808 Rep. Jones (by request of Lykes, Sea-Land, and American President Lines)
Basis for computing payments	SEC. 603 Difference between U.S. crew cost and their substantial foreign competitors, but not for crew that the Secretary has found to be unnecessary for the efficient and economical operation of the vessel.	SEC. 301 The total of -- 1) cost of acquiring and bringing up to breakout status of last 20 vessels purchased for RRF; 2) annual average cost of maintaining a vessel in the RRF in 5-day breakout status; and 3) the annual average cost of training and maintaining officer and enlisted reserves for a vessel in the RRF.	SEC. 624(a)(3) The difference between: 1) the most economical nongovernmental wage package in effect; and 2) the average wage cost for all substantial foreign competitors. For the first 3 years, vessels completely constructed before enactment will receive subsidy for all seamen currently covered by contract. If the Secretary, before enactment, has determined an appropriate manning level, then the ODS will be based on the Secretary's determination. For vessels constructed after enactment, subsidy will also be based on the Secretary's determination. After 3 years, subsidy will only be paid for seamen required by Coast Guard for safe operation of the vessel. Amount received is to be decreased for transportation of cargoes under the Cargo Preference laws.	SEC. 1403(b)(1) The difference between the subsidizable wage cost of U.S. crew over those same costs for their substantial foreign-flag competitors. Subsection (c)(1)(A) states that the basis for wage subsidy before Jun. 30, 1990 is governed by formula in existing contract. After that date, it is determined by the most economical collective bargaining agreement in effect in 1987, adjusted by the Bureau of Labor Statistics index of wage changes affecting employees in the transportation industry. Amount received is to be decreased for transportation of cargoes under the Cargo Preference laws. Para. (2) allows for insurance, and maintenance and repairs, covered by existing contracts to be subsidized for 2 years.	Existing law.

	H.R. 1088 Rep. Biaggi	H.R. 2462 Rep. Jones	H.R. 3297 Rep. Davis	H.R. 3537 Rep. Lent (by request of Administration)	H.R. 3808 Rep. Jones (by request of Lykes, Sea-Land, and American President Lines)
Additional payments	SEC. 604 Secretary given authority to grant any additional amounts necessary to offset foreign subsidies. Also allows Secretary to give special payments for providing service to areas where it may be uneconomical to serve on a commercial basis but where it is in our national interest to serve.	SEC. 302(b) Subject to Appropriations laws; requires Secretary to pay for lost capacity or efficiency due to incorporation of defense features. SEC. 303 When required to participate in naval maneuvers, the Secretary is required to compensate owner for lost commercial time.	SEC. 623(a)(1)(C)(ii)(II) Allows additional payments for the inclusion of defense features on the vessel.	None.	Existing law.
Build-foreign authority	Yes.	Yes.	Yes, for vessels covered by exceptions outlined in Sec. 623.	Yes.	SEC. 4 Yes.
Shipyard program	None.	None.	None.	None.	None.
Trade route deregulation	Eliminates trade routes for operators participating in new system.	Eliminates trade routes for operators participating in new system.	Eliminates trade routes.	Eliminates trade routes.	SEC. 2 Eliminates trade route restrictions beginning 3 years after the date of enactment.
Trade route protection	SEC. 615-616 Allows small operators continued trade route protection on routes they served on Jan. 1, 1987.	SEC. 206 Allows continuing ODS operators continued trade route protection on routes they served on date of enactment.	No restrictions.		Existing law until 3 years after the date of enactment.

	H.R. 1088 Rep. Biaggi	H.R. 2462 Rep. Jones	H.R. 3297 Rep. Davis	H.R. 3537 Rep. Lent (by request of Administration)	H.R. 3808 Rep. Jones (by request of Lykes, Sea-Land, and American President Lines)
Foreign-flag feeder vessels	SEC. 804(b) Allows not more than 2 times the number of vessels under ODS contract.	SEC. 207 General prohibition with exception if appropriations for U.S.-flag feeder vessels are not made.		SEC. 5 Amends SEC. 804 to allow foreign-flag feeders. However, the TEU of the feeder may not exceed the TEU capacity in their line-haul operations.	Existing law.
Operating foreign-flag vessels in U.S. foreign trade	SEC. 804(a) Generally prohibits, but grandfathers in existing service until Oct. 1, 1988.	SEC. 207 Prohibits, with exceptions -- 1) Secretarial waiver. 2) grandfathers until Jan. 1, 1990. 3) as a substitute vessel, when adocumented vessel is participating in naval exercises. 4) for 6 months when documented vessel has been lost or disabled by a marine casualty.		Allows current unsubsidized operators to continue owning foreign-flag vessels until Apr. 15, 1990.	Existing law.
Limitation of number of vessels under contract	SEC. 617 Number in actual operation in 1986 plus 1/3 or 23 vessels, whichever is less.	None.	SEC. 624(b) 20 ships or the number of ships operated by the contractor during 1986, whichever is less.	SEC. 1403(a)(1)(C) 20 ships or the number of vessels under contract during the 2 years before the date of enactment, whichever is less.	Existing law.

	H.R. 1088 Rep. Biaggi	H.R. 2462 Rep. Jones	H.R. 3297 Rep. Davis	H.R. 3537 Rep. Lent (by request of Administration)	H.R. 3808 Rep. Jones (by request of Lykes, Sea-Land, and American President Lines)
Domestic trade protection	SEC. 805 Current unsubsidized operators can continue existing levels of coastwise service without Sec. 805 hearing. All new applications must disclose nature and scope of proposed service.	SEC. 204 & 205 Coastwise operations must be under a separate business entity, with annual certification to the Secretary that earnings from foreign operations have not been transferred to the coastwise entity.	SEC. 623(a)(5) Unless permitted under Sec. 805, they may not operate a vessel in domestic liner service. Amends Sec. 805 to require description of the nature and scope of proposed coastwise service and for expedited review of that application.	SEC. 1407 If operator had permission under Sec. 805 to engage in the coastwise trade, that permission is continued, up to the limit of that approval. Expanded service would require approval under 805.	SEC. 5 Requires applicant to disclose nature and scope of coastwise service. Grandfathers existing inland water operators that operate contract vessels; would not need Secretarial permission.
Eligibility for bulk vessels	Same as existing law.	Act does not differentiate between liners and bulkers.	Same as existing law.	Existing title VI would only apply to bulkers.	Existing law.

	H.R. 1088 Rep. Biaggi	H.R. 2482 Rep. Jones	H.R. 3297 Rep. Davis	H.R. 3537 Rep. Lent (by request of Administration)	H.R. 3806 Rep. Jones (by request of Lykes, Sea-Land, and American President Lines)
Cargo preference changes	SEC. 1 U.S. Mail and cars owned by U.S. employees and transported at Government expense must be transported on U.S. vessels. SEC. 901 Mandates that operators reimburse Government for one-way voyages. Would permit the carriage of preference cargo by a U.S.-built ship; a foreign-built ship documented under U.S. law for 3 years; a foreign-built ship less than 5 years of age when documented a foreign-built vessel less than 10 years of age when documented and deemed necessary for National defense; and roll-on/roll-off vessels documented before May 1, 1986.	SEC. 601 Waives 3-year U.S. building requirement -- but reduces MAST payment by amount received for transporting government cargo.	None.	SEC. 6 Eliminates geographical distribution requirement. Allows foreign-built vessels to carry preference cargo immediately if they are less than 5-years old or if they are 5-to-10-years old and the vessel is useful for national defense. If the vessel is more than 5-years old, but not needed for national defense, it must be documented for 3 years before it is eligible to transport preference cargo.	None.

STATEMENT BY THE HONORABLE JEREMIAH DENTON, CHAIRMAN, COMMISSION ON MERCHANT MARINE AND DEFENSE BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE, 17 MARCH 1988

The Commission on Merchant Marine and Defense was established by the Congress to investigate the nation's sealift resources and, if they were found to be inadequate, to recommend a course of action to redress the situation. Last fall we released the results of our investigation in our *First Report of the Commission on Merchant Marine and Defense: Findings of Fact and Conclusions*. We found the nation's maritime industries -- the principal source of sealift in time of war or national crisis for over 200 years -- to be in a sorry state of decline.

In the *First Report* we found that:

* There is a "clear and growing danger to the national security in the deteriorating condition of America's maritime industries."

* The maritime industries will remain an essential component of America's national security capability. The shipbuilding and repair industry and its associated shipyard suppliers must be preserved as an essential mobilization resource.

* There is today insufficient strategic sealift for the United States, using only its own resources, to execute a major deployment in a contingency operation in a single distant theater -- and without remedial action things will only get worse.

* There is no more militarily efficient, cost-effective, and reliable way to provide the majority of the strategic sealift requirement than through an active United States flag merchant marine, one maintained in peacetime through active and profitable commerce.

* Unless actions are begun now, the number of merchant ships and seamen will be reduced by one half by the year 2000, and the shrinking shipbuilding and repair industry will be almost totally dependent on a declining amount of Navy work. The deteriorating base of shipyards and repair facilities, and their industrial suppliers, is currently inadequate to sustain a protracted general war.

* The decline of the United States merchant marine has been paralleled by a similar decline in the size of the national merchant fleets of some of our most important allies, upon whom we have planned to rely for sealift to support our forces that would be engaged in their theaters.

* Much of the challenge for effective actions to reverse the decline of the American maritime industries lies with the industries themselves but, as with other vital industries, the government should attempt to provide an international business environment free of artificial, non-economic, or discriminatory obstacles.

The Commissioners are, of course, far from alone in their assessment that the decline of the American maritime industries has placed the nation in potential jeopardy. For example, we took particular note of a statement made by the Chairman of the Joint Chiefs of Staffs, Admiral William J. Crowe, USN, in July 1986:

> The decline in size and capacity of the United States merchant marine has been a major concern of national security planners. Even in its presently diminished state, however, it remains an integral element of our preparedness for war and a critical pillar of deterrence. In this era of constrained resources, if there were no United States flag merchant marine, it would have to be replaced by a government owned and operated sealift fleet -- at considerable additional expense to acquire and operate.

Our analysis both confirmed Admiral Crowe's assessment of the value of the merchant marine, and determined that things are rapidly getting worse, not better.

The Second Report of the Commission on Merchant Marine and Defense: Recommendations builds on the factual and philosophical conclusions of the First Report and proposes a carefully integrated set of recommendations designed to halt the decline of our vital maritime industries.

After examining current and projected maritime resources in comparison with our assets, the Commissioners reached the conclusion that a U.S. flag merchant fleet should consist of at least 650 active and reserve merchant ships to meet the national military strategy's sealift needs, as compared to the 530 such ships available now and about 350 projected for the year 2000 if current trends persist. That "650-ship Fleet" could provide sufficient strategic sealift, and it would also provide the work necessary to keep the shipyard component of the maritime industries healthy and functioning.

The Second Report presents a series of seven interrelated recommendations for action by the Administration, the Congress, and the maritime industries themselves:

1. The President should proclaim a national maritime policy and should issue a National Security Decision Directive to ensure compliance by the executive branch. The policy should include seven points:

-- We must have sealift for defense and economic security;

-- We need sufficient ships, seamen, and shipyard facilities to meet the nation's sealift needs;

-- A balance between active and reserve ships is needed, with the emphasis placed on active ships;

-- Reserve sealift forces should be limited to non economically viable ships with unique sealift features;

-- We must be prepared to "go it alone" in places or situations where allies can't or won't help;

-- The shipyard mobilization base must be maintained;

-- New federal funding must be justifiable on defense grounds and the cost borne by the nation as a whole.

2. A meaningful Operating Differential Subsidy reform package should be developed to help the U.S. merchant marine become more competitive on the world market. The reform should include some initial "procure foreign" provisions. Those provisions should be instituted in parallel with domestic ship construction programs,

in order to restore the shipyard base needed to maintain the expanded merchant marine.

3. A "Procure-and-Charter" program should be adopted, using government funds to construct militarily useful ships at the rate of twelve per year for charter to private operators at rates that enable the ships to be operated competitively and profitably; to construct prototypes of emergency sealift designs; and to construct troopship/training ships to meet any specified requirements for such vessels. We also need to strengthen existing programs, such as Title XI financing guarantees and the Construction Capital Fund (CCF) program. Foreign military sales of American-built warships should be encouraged, and the original intent of the 50 percent ad valorem tariff on overseas repairs to U.S. flag merchant ships should be reinstated to strengthen the ship repair industry.

4. The government should step up efforts to ensure equitable competitive conditions for the U.S. merchant marine in the world market, and should enhance efforts at increasing U.S. foreign trade in general and the use of U.S. flag ships in particular. That includes strengthening and expanding reservation for government-owned and government-impelled cargoes for American flag ships.

5. The existing cabotage laws (the "Jones Act") should be supported, and ways to strengthen them should be examined; prohibition of the export of domestic crude and refined petroleum should be continued.

6. DOD and Navy policies should be reexamined with a view to a more balanced approach to competition; in particular, procurement of ocean transportation should use a stable rate system based on established commercial shipping tariffs, and procurement of defense systems and equipment should be done in a manner that permits strengthening the United States industrial base.

7. To improve business efficiency in the maritime industries, cooperative government-industry joint task forces should be established in the following catagories: Maritime Efficiency, Shipyard Efficiency, and Intermodal Transportation Development. Additionally, maritime industry-related R&D should be increased and more effectively coordinated.

The Commission believes that its recommendations must be considered as an integrated package, but it also understands the Subcommittee's immediate concern with pending Operating Differential Subsidy reform legislation. In general, we believe that a meaningful ODS reform package should ensure more flexible and competitive United States carrier service, within acceptable budgetary constraints. The reform should also function as a catalyst to expand the contribution of the merchant marine to the strategic sealift capability of the nation.

ODS reform is needed to allow U.S.-flag operators to replace outmoded ships in order to compete effectively for commercial cargo and, consequently, to increase the number of modern ships available for strategic sealift as required.

The Commission's concern for the health of the shipbuilding and repair segment of the maritime industries is directly related to a number of the assumptions that underlie its recommendations on ODS reform, for neglect of the shipyards would remove a component vital to American strategic sealift.

Accordingly, in its Second Report the Commission has provided a number of principles and stipulations that it believes are important for any acceptable and practicable ODS reform package:

- United States ship operators should be permitted to acquire a controlled number of foreign-built ships and should be allowed to qualify the ships for ODS.

* A formal linkage must be established between the permission to "build foreign" and the level of merchant ship construction in U.S. shipyards.

* A limited number of foreign-built ships should be eligible immediately to carry preference cargo, rather than a ship being required to wait three years, as is the requirement under current law.

* A "window" should be established during which any U.S. operator with ships that qualify as militarily useful sealift assets can enter the ships in the ODS program.

* ODS payments should be made semi-monthly.

* Trade route restrictions should be eliminated.

* Limited use of foreign-flag feeder ships by U.S.-subsidized liner operators should be permitted.

* Eventually, an age limit on ships eligible to receive ODS payments should be established; the Commission suggests 25 years for dry cargo ships and 20 years for tankers.

* Additionally, we firmly believe that any ODS reform program should be fiscally responsible, and that the ODS payments should be based on total crew compensation, while still allowing wages to be set by collective bargaining.

Under the legislation that established the Commission, we are required to make two more reports to the President and Congress. In gathering data for that effort, we have already noted that the trends we reported on in the First Report are not improving on their own. When we began our work in January of 1987, for instance, there were 369 active U.S. flag merchant ships; this January, the figure was down to 341, representing the loss of an additional 823,000 deadweight tons of merchant vessels. Last year, at least six shipyards, two of them major, closed their doors, while at least 16 now are operating under Chapter 11, and industry spokesmen indicate that a number of others will close this year forever unless there is work for them to do. The ills of the maritime industries are not curing themselves.

If the Commission's integrated recommendation package is adopted but still fails to provide sufficient improvement by the early 1990s, then there will be no alternative to stronger measures such as the admittedly unpopular imposition of cargo preference on commercial cargo or, perhaps, a massive program of direct subsidies such as those which now go to other segments of the American economy.

The administration, the Congress, and the industry itself must work together, and we must begin now. We need to avoid piecemeal efforts that seem to favor one interest over the others and that create factionalism and discontent rather than cooperation and progress. A top priority, however, is the Commission's first recommendation, that the nation needs a national maritime policy, promulgated by the President. The issuance of a national maritime policy would serve notice that the problem is a serious one and that the government will be taking a leadership role. Given that leadership, we believe that the American people as a whole would support, indeed demand, action to redress the ills of the maritime industries.

Unless the nation possesses, and is seen by our potential enemies to possess, sufficient sealift assets, our national security posture is not credible. That is a problem that transcends the parochial interests of any segment of our society or our economy.

ATTACHMENT TO TESTIMONY OF WATERMAN STEAMSHIP CORPORATION BEFORE THE HOUSE MERCHANT MARINE SUBCOMMITTEE ODS REFORM LEGISLATION

WATERMAN STEAMSHIP CORPORATION

ANALYSIS OF PENDING ODS REFORM PROPOSALS

I. H.R. 3808 - The Carrier Proposal

A. Section 2: Elimination of Trade Routes and Trade Route Protection

Waterman has consistently advocated some sort of buffer against unreasonably damaging competition between operators receiving financial aid. While we could support the streamlining of section 605(c) procedures, the elimination of the 605(c) buffer (which is already being attempted administratively) will be of no help to the operators. It can only play into the hands of those who would like to see the operators cutting each other's throats with non-compensatory rates. There must be a forum for subsidized operators to raise questions of such damage, a forum which is a repository of expertise for mediating disputes to ensure that the public interest is protected from the overweening exercises of market power which we have sometimes seen. The drafters of the 1936 Act were determined that subsidy should not be paid to foment competition between U.S.-flag operators. There is no reason for this Congress to disregard that wisdom and open the door wider to price wars between U.S.-flag subsidized operators.

B. Section 3: Elimination of Foreign Competition Finding in Section 602 of the Act

The requirement of a finding of direct foreign competition in Section 602 has never presented an obstacle to subsidy of which Waterman is aware. In a recent case where Section 605(c) was emasculated by administrative treatment, the Section 602 finding was also omitted, and the result has been a mini-"rate war" between Waterman and the other operator. There is no need to eliminate the Section 602 finding, since foreign competition is the focus of all financial aid programs for the Merchant Marine.

C. Section 4: U.S.-Built Status for Foreign-Built Vessels

Waterman is a strong supporter of a commercial shipbuilding capability in the United States. We believe it is of such importance that a means must be found to support this capability. Some means must be found for U.S.-flag subsidized operators to replace their tonnage with U.S.-built vessels, particularly operators such as Waterman who were compelled to build steam-powered, high fuel cost vessels under the 1936 Act. Operators of steam-powered vessels should be given the opportunity to obtain vessels which are fuel cost competitive with foreign-built vessels. To achieve that result, these operators should be protected against competition from foreign-built vessels for reserved cargoes until their fleets can be converted to diesel power.

D. Section 5: 805(a) Amendments

Waterman has no position concerning the changes to Section 805(a) of the Act, since Waterman does not operate in the protected domestic trades. We do note, however, the recognition of the principle of preventing destructive competition between U.S.-flag operators. We suggest that same principle of preventing unfair competition should apply in the non-domestic trades.

E. Definitions: Elimination of Trade Routes

Waterman has no objection to the definition of "international trade," insofar as it authorizes subsidy for foreign-to-foreign trade because foreign movements can often be an integral part of subsidized operations, and can contribute significantly to the efficient operation of subsidized vessels, which is an objective of the Act. However, we oppose any application of the definition which would undermine an effective Section 605(c) mechanism to balance competitive interests where there appears to be unfair or unreasonably damaging competition. In broadening the definition of trade routes administratively, MarAd pledged to maintain the integrity of Section 605(c), and it is necessary to maintain an effective Section 605(c), regardless of trade route definitions.

II. H.R. 3537: The Administration Proposal

Waterman does not find the Administration proposal to be in the best interests of a healthy Merchant Marine. The proposal does not consider the realities of international shipping, which cannot be equated with domestic service industries. The United States is obligated to honor all existing ODS contracts, and the firm obligation inherent in ODS contracts has always been a crucial element in securing financing for the heavy, long-term capital commitments required for liner operations. The apparent uncertainty of the

Government's obligations under the Administration proposal would undercut an operator's ability to secure such financing.

The level of subsidy provided does not recognize the realities of industry competition. The amount of subsidy paid would be drastically reduced from present levels, and would not begin to equalize liner operators' costs with those of competing foreign-flag operators. Waterman cannot understand why it is necessary to impose drastic cuts in subsidy levels, when the program is considerably less than a significant budget item, and is probably one of the few programs which has actually been declining, rather than increasing.

The reduction of subsidy for carriage of preference cargoes and the elimination of the requirement that preference be satisfied on a geographic area basis would undermine the preference program. First, there is a radical misconception concerning the role of subsidy and the role of preference statutes. ODS is paid to support the permanent operation of regular, advertised service and the replacement of vessels which perform that service with modern vessels. Preference statutes were passed with the recognition that U.S.-flag vessels, whether subsidized or not, would carry government-sponsored cargoes to a broad range of destinations within the scope of the relief programs. This furnishes U.S.-flag carriers with needed base cargoes at reasonable rates. Thus, these two aspects of the promotional program serve different purposes. The preference statutes contain their own requirement that those cargoes must move at reasonable rates. There is no justification for begrudging ODS operators the opportunity to carry base cargoes at reasonable rates, while receiving support to replace their fleets. The critics of these programs do not consider that U.S. operators cannot provide permanent service unless they can make enough profit to replace their vessels. In many trades, such as certain of Waterman's, preference cargoes furnish necessary base cargoes to fill ships so that they may compete for non-preference cargoes. We daresay that there is not a U.S.-flag operator afloat today who does not require preference cargoes to survive.

Preference cargoes move at reasonable rates and their availability is a second leg upon which a stable U.S.-flag service depends when there are not sufficient commercial cargoes moving to support regular service. This is particularly true of Waterman's service with U.S.-built vessels. It is certainly imperative that our operation not be penalized for operating a full service in markets where we must depend on preference cargoes for support.

III. H.R. 2462: The Maritime Auxiliary Sealift and Training Act

The MAST proposal has the laudable objective of providing sufficient vessels to meet sealift needs. Unfortunately, H.R. 2462 does not provide adequate incentives for vessel operators to participate in the program. Although allowing foreign-built vessels to receive MAST payments lowers the capital cost of the vessels, the amount of the MAST payments appears unlikely to fully compensate vessel owners for the higher costs of operating U.S.-flag vessels. In this situation, it appears unlikely that vessel operators will be drawn into the MAST program.

While attempting to address U.S. sealift needs through the addition of new vessels under the MAST program, H.R. 2462 fails to address the serious problems confronting the existing U.S.-flag fleet. H.R. 2462 does not address the competitive position of the U.S. merchant marine by attacking the overtonnaging problem which threatens the long-term survival of the U.S. merchant marine. In fact, H.R. 2462 exacerbates the overtonnaging problem in at least two ways. First, the legislation effectively eliminates Section 605(c) of the Act by allowing MAST vessels to compete with U.S.-flag vessels operating on trade routes already adequately served by U.S.-flag vessels if the MAST vessel is providing service on that trade route at the time of the enactment of the legislation. The U.S. government should not pay subsidy to vessels to compete with other subsidized vessels on adequately served trade routes, thereby weakening the position of both U.S.-flag operators. The basic principal of the Merchant Marine Act, 1936, was to subsidize U.S.-flag vessels to compete against foreign-flag vessels, and changes to the 1936 Act should carry through on that theme.

The second way in which H.R. 2462 worsens the existing overtonnaging problem is by effectively eliminating the three-year waiting requirement under the Cargo Preference Act of 1954. Such a proposal can only increase the number of foreign-built, or currently foreign-flag, vessels which will be operating in the U.S. preference trades, thereby further overtonnaging the trade and weakening the U.S.-flag merchant marine.

IV. H.R. 3297: The Vessel Operating Differential Subsidy Act

In a positive vein, H.R. 3297 would not contribute to overtonnaging by repealing the three-year waiting requirement for the carriage of preference cargoes. However, the legislation, like that discussed previously, provides no effective mechanism for orderly development of U.S.-flag services in order to address the severe overtonnaging problem in the commercial markets. Interestingly, Section 3 of H.R. 3297 establishes an elaborate procedure for preventing overtonnaging in the coastwise trade. Specifically, no person receiving ODS may apply for, and receive, permission to operate a vessel in the coastal or intercoastal trade if it would result in unfair competition to existing operators or in the overtonnaging of the route. Overtonnaging is presumed if the Secretary finds that less than 85 percent of the capacity of vessels employed on the route was utilized in the year preceding the application. While the 85 percent number may not be fully appropriate in the U.S. foreign trades, and while additional rationalization features should be added to this proposal, Waterman strongly supports the concept of establishing a rationalization program as a means to address overtonnaging.

Unfortunately, H.R. 3297 may contribute to overtonnaging in the U.S.-foreign commercial trades and may weaken the competitive position of the existing U.S.-flag fleet. Although the legislation does not repeal the Section 804 prohibitions on the operation of foreign-flag vessels explicitly, the legislation contains several provisions which have the same effect. Section 625(b)(4) specifically allows foreign-flag vessels to receive ODS while being converted to U.S.-flag, while Section 623(a)(3) appears to authorize operators of subsidized vessels to operate or charter any vessel regardless of flag and to place that vessel into direct competition with U.S.-flag vessels. Further, the important hearing provisions of Section 605(c), which guarantee the protection of operator's rights to prevent overtonnaging through a hearing procedure are removed. In fact, Section 605(c) appears to be modified by the somewhat ambiguous language of Section 623(a)(4) which allows subsidized vessels to operate in a "trade area" if U.S. documented vessels carry less than 50 percent of the cargo in that trade. Not only are there no opportunities for comment by existing operators, but it is unclear how the concept of "trade area" is related to the concept of service in Section 605(c).

V. H.R. 1088: The Merchant Marine Equity Act

The policy comments made above with respect to other proposals are equally applicable to H.R. 1088. As with the other proposals, H.R. 1088 fails to address the need for rationalization. In fact, H.R. 1088 repeals the requirement in both Sections 601 and 602 of the Act that ODS shall be paid only to meet foreign-flag competition. Such a proposal is completely contrary to the purpose of the 1936 Act. Indeed, throughout the congressional debate in 1935 and 1936 congressional advocates of the legislation made it perfectly clear that ODS should be used only to subsidize competition with foreign-flag vessels. Instead of rationalizing U.S.-flag services, H.R. 1088 would pay ODS for one U.S.-flag operator to compete against another U.S.-flag operator. Furthermore, H.R. 1088 will worsen the present overtonnaging situation by repealing the three year waiting requirement for perference cargoes.

H.R. 1088 contains an additional defect of allowing the Secretary of Transportation to pay ODS for foreign-flag vessels. Allowing operators to receive ODS for foreign-flag vessels will enable these vessels, which already operate at lower cost, to serve as "loss leaders" in competing against existing U.S.-flag operators. It has been Waterman's experience that the use of uncontrolled foreign-flag fleets by other U.S.-flag operators has effectively diminished Waterman's market share while not doing anything to expand the pool of U.S. merchant seamen.

H.R. 1088 also effectively repeals Section 605(c) protections for small operators who need it most. Section 616 allows any operator to serve a route it served between 1982 and 1986 without complying with Section 605(c) if that route is now served by an operator owning or chartering less than ten vessels. Thus, even if an operator abandoned a route or severely curtailed its service, that operator may resume service in direct competition with small operators without ever complying with Section 605(c) to determine if the existing service is adequate. Again, H.R. 1088 would pay ODS to U.S.-flag operators to serve routes already adequately served by U.S.-flag vessels.

BEFORE THE
SUBCOMMITTEE ON MERCHANT MARINE
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

TESTIMONY OF
ERIK F. JOHNSEN, PRESIDENT,
CENTRAL GULF LINES, INC.
ON LEGISLATIVE PROPOSALS TO REFORM
THE OPERATING DIFFERENTIAL SUBSIDY PROGRAM

Mr. Chairman:

I am pleased to appear before the subcommittee this morning to present the views of Central Gulf Lines on the various legislative proposals you are considering with reference to reform of the operating differential subsidy (ODS) program. We believe these hearings are very important and very timely, and that appropriate, carefully balanced legislative reform is long overdue in this area of the law. On the other hand, as I shall explain, it would be disastrous, at this critical juncture, for Congress to adopt piecemeal legislative solutions that benefit only two or three of the larger, already heavily-subsidized liner operators while they simultaneously weaken and endanger the remainder of this struggling industry.

A "LEVEL ODS PLAYING FIELD" IS ESSENTIAL

In its first report to the President and Congress dated September 30, 1987, the Commission on Merchant Marine and Defense warned that "there is a clear and growing danger to the national security in the deteriorating condition of America's maritime industries." 1/ The Commission unanimously concluded that a "major governmental effort is urgently required, indeed overdue, to revise our national objectives, policies and commitments in order to reverse [this precipitous] decline." 2/

1/ Commission's letter to the President dated September 30, 1987, at pg. 1; also Commission's report, pg. 1

2/ See Commission Report, pg. 1

Plainly, the Commission did not overstate its case as it relates to the U. S. flag liner fleet. As recently as 1970, this segment of the U. S. merchant marine consisted of 18 major companies operating 434 ships.[3] Today, there are 7 surviving U. S. flag operators with a total of only approximately 88 vessels still sailing in the foreign liner trades, and those ships carry less than 19% of our nation's foreign liner cargoes.[4] In 1986 alone, while this Committee was seeking a legislative solution to the growing dilemma, two major U. S. liner companies — including one of the largest — filed petitions for bankruptcy and ceased operations.[5]

The situation confronting the 7 surviving liner operators requires immediate Congressional action or soon the U. S. liner fleet will again be drastically reduced. While regulatory reform is clearly important, the essential first step is the establishment of "a level Operating Differential Subsidy playing field" for all of the surviving operators.

In this regard, four of the surviving liner operators — American President Lines (APL), Farrell Lines, Lykes Bros. Steamship Corporation and Waterman Steamship Corporation — are subsidized under the current Operating Differential Subsidy (ODS) program. The Maritime Administration reports that, as of September 30, 1986, these 4 operators had theretofore received the following ODS payments from the Government:

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[3] Id, at pg. 11

[4] Id

[5] Id; see also Appendix H to the Commission's report.

Subsidized Operators	Total ODS Payments Received As of September 30, 1986
American President Lines [6]	$1.23 billion
Farrell Lines	$576 million
Lykes Bros. Steamship Corp.	$1.4 billion
Waterman Steamship Corp.	$257 million

Each of these 4 operators continued to receive additional ODS payments from the United States since September 30, 1986. APL, for example, currently collects about $64 million a year in additional subsidy payments, while Waterman, which apparently sails only three subsidized vessels on its assigned trade routes, has continued to collect more than $12.5 million in annual ODS payments. APL's ODS contract is not scheduled to expire until 1997; Farrell Lines', until 1995; Lykes', until 1998; and Waterman's, until 1991, meaning that the aforesaid annual subsidy installments will continue for more than another decade.

The fifth surviving U.S. flag liner operator, Sea Land Services, Inc. (Sea Land), recently merged with CSX Transportation Co., Inc., which operates several of the largest railroads in the United States, as well as one of the largest domestic barge transportation networks. Recently, Sea Land acquired, or is in the process of acquiring, a series of Operating Differential Subsidy contracts from United States Lines, Inc. and United States Lines (S.A.), Inc., two former subsidized operators which filed for bankruptcy in 1986. It would appear, therefore, that Sea Land plans, through acquisition of the aforesaid ODS contracts, also automatically to become a subsidized operator in the near future so that it too will soon begin to receive subsidy support from the Government.

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[6] APL merged with American Mail Lines in 1973. Thus, the total ODS payments for APL include those received by AML as well.

The two remaining liner operators — Central Gulf Lines, Inc. and Crowley Maritime Corporation — are unsubsidized, i. e. they have not heretofore received, and they are not currently receiving, any ODS payments from the Treasury. As this Committee knows, since 1982, the ODS program has been frozen, so the Maritime Administration has been barred from entering into any new ODS contracts with unsubsidized liner operators. Consequently, for a long period of years, these two U. S. flag companies have been required to compete simultaneously with both foreign operators and heavily-subsidized U. S. flag operators on a completely uneven, tilted Operating Differential Subsidy playing field.

Plainly, no subsidy program funded with federal tax revenues should operate in such a discriminatory manner. And, patently, no federal subsidy program, which constantly favors a few subsidized U. S. flag operators to the detriment of competing unsubsidized U. S. flag operators, can possibly produce a truly vibrant, successful, unified U. S. Merchant Marine. Consequently, as stated above, the primary goal of any legislation enacted at this time must be the establishment of a level ODS playing field for all U. S. flag liner operators.

Fortunately for the United States and the U.S. maritime industry, therefore, some of the legislative proposals introduced by Chairman Jones and other members of this Committee, and at the request of the Administration, appear to be good "first steps" in that direction. As presently drafted, none of these proposals would successfully establish a "level ODS playing field" — plainly, they all require significant amendments. However, they are good starting points from which this Committee can proceed to draft the type of carefully-balanced legislation that is needed to create a new, fair, even-handed system for the distribution of available ODS funds among all qualified U.S. flag liner operators, now and in the future.

As discussed in further detail, infra, once a level playing field has been established, the regulatory reforms sought by both the Administration and the presently-subsidized carriers (including about-to-become subsidized Sea Land) should expeditiously take effect. These include a phased-in end to rigid trade route restrictions; the ability to construct new modern ships abroad; the ability to continue to conduct current domestic operations; and to maintain appropriate, essential relationships with affiliates engaged in foreign operations.

As we approach the year 2000, all of these regulatory reforms are essential ingredients for the re-creation of a strong, successful U. S. liner fleet. But, until a level ODS playing field is established for all competing U. S. operators, Congress would surely doom most of the surviving U. S. liner operators if, at the behest of APL, Lykes and Sea Land alone, it proceeded first with these regulatory reforms and postponed consideration of the need for establishment of "a level playing field" to some later date.

The Level ODS Playing Field Envisioned By The Pending Bills Should Be Achieved Either Through Strict Economies In The Current ODS Program, Or Additional Funding, Or Both

The Commission on Merchant Marine and Defense states, at page 3 of its recent report:

> "The decline of the maritime industries has been continuous over the long term in spite of a number and variety of 'business as usual' fixes and marginal adjustments. Heroic measures will be necessary if the decline is to be reversed and the industries restored to the minimum capacity projected by the Department of Defense and the Department of Transportation as necessary to fulfill the requirements of our current national policy. . . .
>
> "To provide for the national security, to avoid wasting private and public funds, and to address the situation effectively, government leadership is required to ensure the earliest possible active, serious and constructive public and private cooperation among government, business, and labor to make the United States merchant marine more productive and competitive in world trade. . . .
>
> "The rapidly deteriorating situation cannot be addressed without real costs in terms of national resources allocated to pay for the defense aspects of the maritime industries. Any successful course of action will have costs; the challenge is to develop and implement policies that meet the requirements in the most cost-effective manner possible."

It is in this vein, therefore, that Central Gulf Lines urges the Committee to resolve from the very outset that the "level ODS playing field," which lies at the very heart of most of the pending bills, must be established without further delay — and clearly, that goal must be achieved through either strict, Congressionally-mandated economies in the current ODS program, or through additional federal funding, or a combination of both.

The "level playing field" concept means, of course, that all U. S. flag liner operators shall be made eligible for participation in the ODS program, and that after a relatively short phase-in period, all ODS operators will receive the same "subsidy per ship" each year. Currently, subsidized operators receive roughly $4 million per ship each year in ODS payments from the Government. These ODS payments subsidize wage, insurance and ship repair operating costs. Through the imposition of strict operating economies, and possibly with the elimination or reduction of subsidy payments applicable to insurance and repairs, ODS payments per ship could fairly be reduced to $2.5 million per ship per year.

Consequently, by imposing a reasonable cap of $2.5 million on ODS payments per ship per year — and by limiting the total number of ships the Government will subsidize for each ODS operator — sufficient economies in the current ODS program could be made to provide a "level ODS playing field" for presently unsubsidized U. S. flag operators. Simultaneously, of course, the imposition of a flat subsidy cap would make it unnecessary for the Government to become involved in wage and manning scale negotiations between ODS operators and the maritime unions, as the Administration bill presently proposes. Labor and management would be able freely to bargain, and the Government's sole responsibility would be payment of the prescribed amount of subsidy per ship each year as a quid pro quo for the creation of a larger, more modern and competitive U. S. liner fleet.

In its recent report, the Commission on Merchant Marine and Defense recognized that "heroic measures" will be necessary if the U. S. merchant fleet is to recuperate and survive. Current ODS operators must, therefore, do their part to the extent of eliminating waste and inefficiency in presently subsidized operations; and while it may seem difficult, they should attempt to abandon the destructive tactic of threatening to sue the Government each time the Administration or the Congress proposes reasonable, essential, readily attainable changes in the ODS program.

If, however, Congress ultimately finds it impossible to establish a fair "level ODS playing field" on the basis of ODS program economies alone, then in line with the aforesaid report of the Commission on Merchant Marine and Defense, Congress must likewise take the "heroic" step of providing a relatively small amount of additional federal funds for that purpose. The Commission stated in its recent report that "the merchant marine [is] and will be for the foreseeable future an essential component of America's national security capability for the transportation of cargo and personnel for national defense purposes. 7/ The Commission explained: 8/

> "The United States flag merchant marine
> is an essential direct military asset

7/ See Commission's report, pg. 1

8/ Id

> because, to meet the sealift requirements of the national strategy in time of war or national emergency, many or most privately-owned, commercial, United States flag merchant ships and their American crews would of necessity be used for military sealift purposes and integrated directly into the national military command structure. . . .
>
> "There is today insufficient strategic sealift, both ships and trained personnel, for the United States, using only its own resources as required by defense planning assumptions, to execute a major deployment in a contingency operation in a single distant theater such as Southwest Asia. Without decisive action, the situation will worsen substantially by the year 2000.
>
> "Based on its study and analysis, the Commission has concluded that there is no more militarily efficient, cost effective, and reliable way to provide the majority of the military sealift requirement now and in the future than through an active United States flag merchant marine. The ships should be militarily useful and operating. . . ."

For 1988, the United States' defense budget is $292 billion, with the understanding that only $285 billion will actually be spent. [9/] The comparatively miniscule funds needed properly to fund a carefully reformed, nondiscriminatory ODS program should, therefore, be provided by Congress as soon as possible, with strict directions to the Maritime Administration and U. S. liner operators to proceed immediately with the rebuilding and revitalization of the U. S. flag liner fleet.

[9/] Source: U. S. Senate Budget Committee, 1/13/87

Finally, when sufficient funding is provided to support the expedited establishment of a "level ODS playing field," Congress should, we respectfully submit, avoid discriminatorily dividing the surviving U.S. flag liner operators into different classes — e.g. "contractors" and "grantees," as the Administration bill (H.R. 3537) proposes, or "ODS Operators" and "maritime auxillary sealift" operators as H.R. 2462 suggests. On the surface, these distinctions may seem insignificant. But, if in actual practice, these different classifications are to have substantially different rights and benefits, the term "level playing field" will quickly lose its intended meaning and vitality. In the final analysis, all U.S. flag liner operators eligible for federal operating subsidies should be treated essentially the same and nondiscriminatorily.

When Provision Has Been Made For The Establishment Of A "Level ODS Playing Field," The Essential Regulatory Reforms Should Then Immediately Take Effect.

Once Congress has provided a "level ODS playing field, for all surviving U.S. flag liner operators — and the presently-unsubsidized companies have had sufficient time fully to qualify — then several vitally important regulatory reforms should promptly become effective. These include, of course the Administratiion's proposals which would —

(i) authorize worldwide acquisition of vessels;
(ii) eliminate costly, cumbersome Section 605(c) hearing procedures in cases where presently unsubsidized operators apply for participation in the reformed ODS program; and
(iii) remove trade route restrictions so U.S. flag operators will be able to engage in flexible worldwide shipping activities.

Two additional "reforms," however, are vitally necessary. I believe all of the currently unsubsidized operators, including Sea Land, presently operate, either directly or through corporate affiliates, some vessels in the domestic intercoastal or coastwise service, and/or other vessels that operate under foreign flags. Section 1407 of H.R. 3537, the Administration bill, would grandfather "domestic liner services," while Section 1411 would authorize the operation of "foreign flag feeder vessels," certain foreign flag charter arrangements, and ODS operators would be permitted to act as agents or brokers for foreign flag vessels.

These sections of the Administration bill are not sufficient. With reference to intercoastal or coastwise operations, a provision such as Section 5(2) of Chairman Jones' H.R. 3808 is clearly essential. Stated simply, it would require the Secretary automatically approve the domestic barge and tug operations of currently unsubsidized operators who apply for participation in the new, reformed ODS program. With reference to foreign flag operations, an amendment to Section 804(b) of the Merchant Marine Act of 1936 must be adopted pursuant to which the Secretary of Transportation would likewise be directed to approve the currently unsubsidized operator's foreign flag affiliations, and to permit future changes in those operations in cases where the U.S. flag company, or its affiliated companies, have less than a 50% equity interest.

These proposed amendments to the Administration bill are essential, of course, because during the long period of years the presently unsubsidized U. S. flag operators were required to survive without any participation in the ODS program, they understandably acquired interests in certain domestic barge operations and foreign flag vessel operations which they simply cannot afford to relinquish at this late date. Indeed, as we approach the year 2000 and as the Administration bill recognizes, U. S. flag operators generally must be allowed to become involved in these types of bona fide integrated maritime operations as a means of coping more successfully with less regulated, extremely flexible foreign operators with whom they must constantly compete throughout the world. Moreover, since the key purpose of the Committee at this time is to salvage what's left of the U. S. Merchant Marine and to rebuild it for the future, it simply cannot start that process by compelling previously unsubsidized operators to weaken or relinquish domestic or foreign segments of their existing operations which have enabled them to survive in the past.

Obviously, there are other amendments to the pending bills that are essential. However, instead of discussing all of those here, we direct the Committe's attention to Appendix A hereto which specifies all the non-funding amendments Central Gulf urges the Committee to consider and adopt.

In addition, in an effort further to assist the Committee, Central Gulf has redrafted those sections of the Merchant Marine Act of 1936 which require modification at this time if the type of program envisioned by the Administration and Central Gulf is approved by the Congress. That redraft and a covering explanatory statement are submitted herewith in Appendix B to this testimony.

III

The Committee Should Reject The Exceedingly Dangerous, Piecemeal Legislative Proposal Submitted By Three Of The Surviving Operators Exclusively To Enable Them Unilaterally To Escape Operating Restrictions And Requirements Contained In The ODS Contracts They Hold.

Until Congress provides for the establishment of a "level ODS playing field" for all surviving U. S. flag liner operators, it would be a serious mistake for this Committee even to consider the completely self-serving, piecemeal bill prepared and supported by three carriers, two of which have already collected more than $1.2 billion each in ODS payments from the Government and the third which recently purchased a series of ODS contracts in order to guarantee its future participation in the ODS program.

Stated simply, the sole purpose of this legislation is to enable these three carriers unilaterally to escape from long-standing operating restrictions contained in the subsidy contracts they hold. Through this legislation, they want to —

1. Do away with their contractual trade route restrictions;
2. Cancel their subsidy obligation to operate U. S. built ships;
3. Engage in the operation of barges on the domestic waterways, and
4. Operate foreign feeder ships.

This self-serving bill is "exceedingly dangerous" for several reasons. First, it threatens to make it impossible for Congress ever to enact legislation that would establish "a level ODS playing field" for all surviving U. S. flag operators. If the three largest liner operators gain everything they need or want through that bill, they would never support legislation in the future to establish "a level playing field" for the other surviving liner operators. Secondly, without "a level playing field," enactment of the three carriers' self-serving bill at this time would place all of the other U.S. flag operators in serious jeopardy. They would immediately be confronted with new, totally unrestricted competition from the three largest carriers, all of which are either subsidized or about to become subsidized. How could they possibly successfully quote rates that would regularly be competitive with those of the three largest carriers — all heavily subsidized and sailing without operating restrictions?

Finally, enactment of such legislation at this time would do nothing but exacerbate the dreary picture of the U.S. merchant marine painted by the Commission on Merchant Marine and Defense in its recent report. Indeed, that bill actually threatens to destroy major segments of what presently remains of the U. S. liner fleet, thereby increasing what the Commission describes as "the growing danger to the national security."

Plainly, the Committee must refuse even to consider such legislation until it acts favorably and forcefully on the Administration's proposal to create "a level playing field" for all surviving U. S. flag liner operators.

Conclusion

The Committee should approve and report an ODS reform bill, which includes all of the provisions discussed hereinabove.

Appendix A

November 25, 1987

PROPOSED CHANGES IN ADMINISTRATION DRAFT BILL
TO BE CITED AS THE "MARITIME PROMOTION ACT OF 1987"
REFERRED TO IN PUBLIC NOTICE DATED NOVEMBER 9, 1987

1. In Section 1402(a)(1), change the words, "consider and approve or disapprove" to read, "upon application or on the Secretary's own motion, grant."

2. In Section 1402(a)(1), after "liner vessels" on line 3, add a clause reading, ", including vessels under charter to the United States".

3. Insert at the beginning of Section 1402(c), "Commencing in the second year after the date of enactment of this Title,".

4. In Section 1403(a)(2), eliminate the words on the third line, "under an operating differential subsidy".

5. Revise Section 1407 entirely to read:

   "Section 1407.

   "Section 805(a) of the Merchant Marine Act, 1936, is amended to read as follows:

   (a) Foreign trade subsidy contractor engaging in coastwise or intercoastal trade

   It shall be unlawful to award or pay any subsidy to any contractor under authority of subchapter VI of this chapter, or to charter any vessel to any person under subchapter VII of this chapter, if said contractor or charterer, or any holding company, subsidiary, affiliate, or associate of such contractor or charterer, or any officer, director, agent, or executive thereof, directly or indirectly, shall own, operate, or charter any vessel or vessels engaged in the domestic intercoastal or coastwise service, or own any pecuniary interest, directly or indirectly, in any person or concern that owns, charters, or operates any vessel or vessels in the domestic intercoastal or coastwise service without the written permission of the Secretary of Transportation. Every person, firm, or corporation having any interest in such application shall be permitted to intervene and the Secretary of Transportation shall give a hearing to the applicant and the intervenors. The Secretary of Transportation shall not grant any such application if the Secretary of Transportation finds it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or that it would be prejudicial to the objects and policy of this chapter. Applications for written permission shall disclose the nature and scope of operations proposed to be conducted in domestic intercoastal or coastwise service. In a hearing under this subsection, the Secretary of Transportation shall consider the impact of a grant of written permission on the operations of persons, firms or corporations operating exclusively in domestic intercoastal or coastwise service. A grant of written permission shall establish such contract terms and conditions as the Secretary determines necessary to ensure that the proposed operations will not (1) result in unfair competition to any person, firm or corporation operating exclusively in domestic intercoastal or coastwise service; (2) be prejudicial to the objects and policy of this Act; or (3) result in diversion, directly or indirectly, of any moneys, property, or other thing of value, used in foreign-trade operations, for which a subsidy is paid by the United States, into any domestic intercoastal or coastwise operations. The provisions of this section shall be applicable to applications for written permission which have not been approved by the Secretary prior to the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936. The Secretary shall issue a final decision regarding any applications filed under this subsection not later than 15 months after the application is filed or 13 months after such date of enactment, whichever is later, and shall establish reasonable time limits for subordinates to reach initial decisions in order to ensure that final decisions are issued by the Secretary by the time specified in this sentence; and provided, that if such contractor or other person above-described or a predecessor in interest was in bona-fide operation as a common carrier by water in the domestic, intercoastal, or coastwise trade in 1935 over the route or routes or in the trade or trades for which application is made and has so operated since that time or if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event, as to interruptions of service over which the applicant or its predecessor in interest has no control, the Secretary of Transportation shall grant such permission without requiring further proof that public interest and convenience will be served by such operation, and without further proceedings as to the competition in such route or trade.

If such application be allowed, it shall be unlawful for any of the persons mentioned in this section to divert, directly or indirectly, any moneys, property, or other thing of value, used in foreign-trade operations, for which a subsidy is paid by the United States, into any such coastwise or intercoastal operations; and whosoever shall violate this provision shall be guilty of a misdemeanor, and provided further, that if a contractor or any affiliate or associate of such contractor was on or before the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936, in bona fide operation of tug and barge services within the Mississippi and Ohio River systems, their navigable tributaries, the Illinois River (including navigable industrial canals and contiguous harbor service from and in Chicago to Burns Harbor), the Gulf Intercoastal Waterway from Brownsville, Texas to Saint Marks, Florida, its harbors and contiguous navigable streams and waterways, adjacent coastal waters to Fort Myers, Florida, the Tennessee-Tombigbee Waterway, and the Warrior River Sysytem and its navigable tributaries, a waiver for services of this type shall be automatically approved, subject only to those geographic limitations, without hearings and simultaneously with the award of subsidy to such contractor under the authority of title VI of this Act."

6. In Section 5 of the administration bill, add a new 5(c) and re-letter the following sections. The new 5(c) is to read:

"(c) The Secretary shall grant such a waiver with respect to a Holder for:

(1) Foreign activities carried out by the Holder on the date of enactment hereof, and

(2) Future foreign activities where the Holder will have less than a fifty per cent (50%) equity interest."

7. Amend Section 46 U.S.C. 12102(4) to read:

   "(4) A corporation which is a citizen of the U. S. within the meaning of 46 U.S.C. 802.

November 25, 1987

EXPLANATION OF PROPOSED CHANGES IN ADMINISTRATION DRAFT BILL TO BE CITED AS THE "MARITIME PROMOTION ACT OF 1987" REFERRED TO IN PUBLIC NOTICE DATED NOVEMBER 9, 1987

1. The purpose of this amendment to Section 1402(a)(1) is to provide parity between a non-subsidized operator and a subsidized operator. The language change in (1) which applies to non-subsidized operators moves up the exact language used in (2) which applies to subsidized operators.

2. The purpose of this amendment to Section 1402(a)(1) is to make it clear that vessels under charter to the United States are considered as liner vessels for the purpose of qualifying an applicant during the period two years prior to enactment.

3. The purpose of this amendment to Section 1402(c) is to make it clear that applicants actually in operation are granted subsidy without the necessity of a hearing.

4. The purpose of this amendment to Section 1402(a)(2) is, again, to provide parity between a non-subsidized applicant and a subsidized applicant.

5. The proposed amendment to Section 1407 brings in the language that was agreed to be all parties in prior discussions as the proper method of dealing with inland and coastal services.

6. The new 5(c) is designed to require the Secretary to grant a waiver with respect to existing foreign activities and with respect to foreign activities where the Holder has a minority interest.

7. The suggested amendment to 46 USC 12102(4) is designed to overcome an obvious oversight in the law on registration to require that U. S. flag vessels have majority U. S. flag ownership. Under the present law, foreigners can receive the benefits of U. S. flag ownership where there is no U. S. ownership at all, which virtually constitutes a U. S. flag as a "flag of convenience".

Appendix B

November 30, 1987

EXPLANATION OF NOVEMBER 30, 1987 PROPOSED CHANGES
MERCHANT MARINE ACT, 1936

1. Page 1, section 601(a). In view of the fact that trade routes are being eliminated, the term "essential service" which appears three times in this section and the definition of "essential service" have been stricken, and the term "the foreign commerce of the United States" has been added in the appropriate place.

In addition, the provision that vessels must be U. S. built has been stricken, since this is covered in section 610 and 615.

2. Pages 3 and 4, Section 603(a). The existing language of 603(a) has been stricken, and substitute language has been put in. The changes are based in part on the Committee staff draft and in part on the existing language. It makes two very significant additions: (1) the term "currently qualified applicant" is introduced for drafting purposes and (2) the concept that the subsidy will be for the present number of applicant's liner vessels is introduced. Since this is the section which deals with the contract which is to be made, it is appropriate to put the number of subsidy contracts.

3. Pages 5 through 8, Section 603(b)-(f). The language of the existing Act as to amount of subsidy has been deleted and replaced by language contained in the November 1987 Administration Proposal: Draft Bill Sec. 1403(b) through (e) pages 8 through 12.

4. Pages 8 and 9, Section 605(c). In line with suggestions contained in the Committee staff draft and submitted by others, the concept is to retain the initial portion of 605(c) and add a new portion which applies to currently qualified applicants who file within 90 days. What this does is eliminate the hearing and provide that two of the four provisions of 601(a) are deemed to have been satisfied as respects a currently qualified applicant. These two are No. 1 that the operation of the vessels to be subsidized is required to meet foreign flag competition and to promote the foreign commerce of the United States and No. 4 that the granting of aid is necessary to place the proposed operation of the vessels on a parity with those of foreign competitors and is reasonably calculated to carry out effectively the procedures and policy of this act.

This leaves the Secretary to make a determination of No. 2 that the applicant owns or leases or will purchase appropriate vessels and No. 3 that the applicant possesses the ability, experience, financial resources, etc. These are findings which it is appropriate for the Secretary to make without a hearing.

In addition, for the sake of consistency, the beginning of 605(c) has been modified to take out the term "essential service" and eliminate the public hearing provision. Since section 605(c) will continue to be used for applications filed after the initial 90-day period, it should be corrected.

5. Section 610(b), pages 10 and 11. This adds the language from the Committee staff draft to permit foreign built ships to be subsidized.

6. Section 804(b), pages 12 and 13. This adds language (1) to grandfather in existing operations and (2) permit future activities where the applicant will have less than a 50% equity interest.

7. Section 805(a), pages 14 through 17 contains language tentatively agreed to at a meeting of Committee staff and West Coast and East Coast Operators in June 1987.

8. Section 905(h), (i), and (j), page 20. These are definitions and were in the last Committee staff draft.

9. The language of section 209(a) and (b) is the language from the Committee staff draft.

EXCERPTS FROM THE
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EXCERPTS FROM THE
MERCHANT MARINE ACT, 1936
46 U.S.C. §1171 et seq.

I. SUBCHAPTER I - DECLARATION OF POLICY

A. (§101) §1101. Fostering Development and maintenance of merchant marine.

It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States, insofar as may be practicable, (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and (e) supplemented by efficient facilities for shipbuilding and ship repair. It is declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine.

II. SUBCHAPTER VI - OPERATING DIFFERENTIAL SUBSIDY

A. (§ 601) § 1171. Subsidy authorized for operation of vessels in foreign trade or in off-season cruises

(a) Application for subsidy; conditions precedent to granting

The Secretary of Transportation is authorized and directed to consider the application of any citizen of the United States for financial aid in the operation of a vessel or vessels, which are to be used ~~in an essential service~~ in the foreign commerce of the United States or in such service and in cruises authorized under section 1183 of this title. ~~In this subchapter VI the term "essential service" means the operation of a vessel on a service,~~

~~route, or line described in section 1121(a) of this title or in bulk cargo carrying service described in section 1121(b) of this title~~. No such application shall be approved by the Secretary of Transportation unless he determines that (1) the operation of such vessel or vessels ~~in an essential service~~ is required to meet foreign-flag competition and to promote the foreign commerce of the United States except to the extent such vessels are to be operated on cruises authorized under section 1183 of this title; ~~and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date;~~ (2) the applicant owns or leases, or can and will build or purchase or lease, a vessel or vessels of the size, type, speed, and number, and with the proper equipment required to enable him to operate in ~~an essential service~~, the foreign commerce of the United States, in such manner as may be necessary to meet competitive conditions, and to promote foreign commerce; (3) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the vessel or vessels as to meet competitive conditions and promote foreign commerce; (4) the granting of the aid applied for is necessary to place the proposed operations of the vessel or vessels on a parity with those of foreign competitors, and is reasonably calculated to carry out effectively the purposes and policy of this chapter. To the extent the application covers cruises, as authorized under section 1183 of this title, the Secretary of Transportation may make the portion of this last determination relating to parity on the basis that any foreign flag cruise from the United States competes with any American flag cruise from the United States.

(b) Statements as to financial interests to accompany application; penalty for false statements

Every application for an operating-differential subsidy under the provisions of this subchapter shall be accompanied by statements disclosing the names of all persons having any pecuniary interest, direct or indirect, in such application, or in the ownership or use of the vessel or vessels, routes, or lines covered thereby, and the nature and extent of any such interest, together with such financial and other statements as may be required by the Secretary of Transportation. All such statements shall be under oath or affirmation and in such form as the Secretary of Transportation shall prescribe. Any person who, in an application for financial aid under this subchapter or in any statement required to be filed therewith, willfully makes any untrue statement of a material fact, shall be guilty of a misdemeanor. (As amended Aug. 6, 1981, Pub.L. 97-31 § 12(93), 95 Stat. 161.)

B. (§ 602) § 1172. Determination of necessity of subsidy to meet competition

Except with respect to cruises authorized under section 1183 of this title, no contract for an operating-differential subsidy shall be made by the Secretary of Transportation for the operation of a bulk vessel or vessels to meet foreign competition, except direct foreign-flag competition, until and unless the Secretary of Transportation, after a full and complete investigation and hearing, shall determine that an operating-differential subsidy is necessary to meet competition of foreign-flag ships. (As amended Aug. 6, 1981, Pub.L. 97-31, § 12(94), 95 Stat. 161.)

C. (§ 603) § 1173. Contracts for payment of subsidy

(a) Authorization of contracts

~~If the Secretary of Transportation approves the application, he may enter into a contract with the applicant for the payment of an operating-differential subsidy determined in accordance with the provisions of subsection (b) of this section, for the operation of such vessel or vessels in an essential service and in cruises authorized under section 1183 of this title for a period not exceeding twenty years, and subject to such reasonable terms and conditions, consistent with this chapter, as the~~

~~Secretary of Transportation shall require to effectuate the purposes and policy of this chapter, including a performance bond with approved sureties, if such bond is required by the Secretary of Transportation~~.

Upon making the determinations specified in section 601(a) with regard to any application for aid in the operation of liner vessels by a currently qualified applicant which, for the purposes of this subchapter, shall mean an applicant, whether or not presently holding an ODS Contract, which operated a liner vessel or vessels documented under the laws of the United States in international trade for a continuous one-year period immediately prior to the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936, the Secretary of Transportation shall approve the application for the number of liner vessels, operated during such period, as defined in Sec. 905(i) and (j) of this subchapter; provided, however, that in the event that a currently qualified applicant operated less than ten liner vessels, such applicant shall be entitled to additional ship-year authorizations up to a maximum of ten ship years of operation; and, provided, further, that the number of ship years of subsidized operation, including those of U.S. flag feeder vessels, shall not exceed twenty ship years of operation in any one year and provided further that the ship year ceiling for any one operator may be increased through acquisitions of, mergers with, capital asset purchases from, an otherwise unrelated entity which at the time of acquisition, merger or purchase is a party to an operating-differential subsidy contract with the Secretary pursuant to this title. Subsidized operators may sell or acquire ship year authorizations among themselves and others who would otherwise be eligible to receive operating differential subsidy. The Secretary of Transportation may approve any other application upon making the determinations required by this title. Upon approving an application, the Secretary of Transportation shall enter into a contract with the applicant for the payment of an operating-differential subsidy determined in accordance with the provisions of subsection (b) of this section for the operation of such vessel or vessels in the foreign commerce of the United States, and in cruises authorized under section 613 of this title. Such contract or amendment to a contract shall be subject to such reasonable terms and conditions, consistent with this act, as the Secretary of Transportation shall require to effectuate the purposes and policy of this Act, including a performance bond with approved sureties, if such bond is required by the Secretary of Transportation. Any such contract shall be for a period not exceeding twenty years.

(b)-(f): delete and substitute the following:

(b) Amount of Subsidy

The amount of the operating-differential subsidy for the operation of vessels in subsidized service shall equal the excess of the subsidizable wage costs of the United States officers and crews incurred in the operation under United States registry of the vessel or vessels covered by the ODS Contract, over the estimated fair and reasonable cost of the same items of expense (after deducting therefrom any estimated increases in such items necessitated by features incorporated pursuant to the provisions of section 501(b)) if such vessel or vessels were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel or vessels covered by the ODS Contract; provided, that, with respect to applicants presently holding an ODS Contract for a period of two years following the date of enactment of this section, the amount of operating-differential subsidy shall include, to the extent provided in existing ODS Contracts, the fair and reasonable cost of insurance and maintenance and repairs not compensated by insurance, incurred in the operation under United States registry of the vessel or vessels covered by such amended ODS contracts, over the estimated fair and reasonable cost of the same items of expense (after deducting therefrom any estimated increase in such items necessitated by features incorporated pursuant to the provisions of section 501(b)) if such vessel or vessels were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel or vessels covered by the amended ODS Contracts.

For amended ODS Contracts, until January 1, 1990, for the wage fiscal period commencing July 1, 1989, and ending June 30, 1990, subsidizable wage costs shall be determined for operating-differential subsidy purposes in accordance with the existing ODS Contract previously held by a Contractor.

On January 1, 1991, for the wage fiscal period commencing July 1, 1990, and ending June 30, 1991, subsidizable wage costs for amended ODS Contracts shall be the lesser of:

(i) The actual cost, calculated on the basis of a per diem rate of expense, of all items of expense required through collective bargaining or other agreement, including payments required by law to assure old-age pensions, unemployment benefits, or similar benefits and taxes or other governmental assessments on crew payrolls; or

(ii) The actual cost, calculated on the basis of a per diem rate of expense of all items of expense in the most economical collective bargaining or other wage agreement or agreements negotiated or in effect during calendar year 1987, for established liner services, increased or decreased by the index described in subsection (c)(4) from January 1, 1987, to January 1, 1991. for newly established liner services, the most economical collective bargaining or other wage agreement or agreements shall be used. Such cost shall be determined by the Secretary after review of wage agreements concluded in effect during 1987, whether such agreements be with a subsidized operator, an unsubsidized operator or the United States.

In subsequent years, subsidizable wages costs shall be the lesser of actual collective bargaining wage costs as of January 1 of such year or the subsidizable wage costs determined as of January 1, 1991, increased or decreased by the index described in subsection (c)(4) from January 1, 1991, to January 1 of the subsequent years.

For new ODS Contracts, on January 1 of the first year of subsidized operations, for the wage period commencing July 1 of the preceding year and ending June 30 of such year, subsidized wage costs shall be calculated in accordance with the formula provided in subsection (c)(1)(B).

In subsequent years, subsidizable wage costs for new ODS Contracts shall be the lesser of the actual collective bargaining costs as of January 1 of such year, or the subsidizable wage costs determined as of January 1 of the first year of operation, increased or decreased by the index described in subsection (c)(4) from January 1 of the first year of operation to January 1 of subsequent years.

The Secretary shall determine the collective-bargaining costs on ships in subsidized operation as of January 1 of each year for the wage fiscal period beginning July 1 of the preceding year and ending June 30 of such year.

The Bureau of Labor Statistics shall compile the index referred to in subsections (c)(1) and (2). Such index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective-bargaining agreements with equal weight to be given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and to changes affecting employees in private nonagricultural industries other than transportation. Such index shall be based on the materials regularly used by the Bureau of Labor Statistics in compiling its regularly published statistical series on wage and benefit changes arrived at through collective bargaining. Such materials shall remain confidential and not be subject to disclosure.

Each foreign wage cost computation shall be made after an opportunity is given to the Contractor or Holder to submit in writing and in timely fashion all relevant data within his possession. In making the computation, the Secretary shall consider all relevant matters so presented and all foreign wage cost data collected at the request of or on behalf of the Secretary. Such foreign cost data shall be made available to an interested Contractor or Holder, unless the Secretary shall find that disclosure of the data will prevent the Secretary from obtaining such data in the future. In determining foreign manning for purposes of this section, foreign manning shall be determined as of January 1, 1991 for Contractors under an amended ODS Contract, and January 1 of the first year of opertion for Holders of a new ODS Contract. Thereafter foreign manning shall be redetermined every two years.

The subsidy shall be paid semimonthly upon certification by the Contractor or Holder that the subsidized vessels were in authroized service during the month.

D. (§ 604) § 1174. Additional subsidy; when authorized (NOT TO BE AMENDED)

E. (§ 605) § 1175. Vessels excluded from subsidy

(a) Vessels engaged in coastwise or intercoastal trade; vessels on inland waterways (NOT TO BE AMENDED)

(b) Vessels more than 25 years old (NOT TO BE AMENDED)

(c) Vessels to be operated in essential service served by citizens of United States

No contract shall be made under this subchapter with respect to a vessel to be operated in ~~an essential service served by citizens of the United States which would be in addition to the existing service, or services,~~ the foreign commerce of the United States, unless the Secretary of Transportation shall determine

~~after proper hearing of all parties~~ that the service already provided by vessels of United States registry is inadequate, and that in the accomplishment of the purposes and policy of this chapter additional vessels should be operated thereon; and no contract shall be made with respect to a vessel operated or to be operated in ~~an essential~~ a particular service served by two or more citizens of the United States with vessels of United States registry, if the Secretary of Transportation shall determine the effect of such a contract would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in such ~~essential~~ service, unless ~~following public hearing, due notice of which shall be given to each operator serving such essential service,~~ the Secretary of Transportation shall find that it is necessary to enter into such contract in order to provide adequate service by vessels of United States registry. The Secretary of Transportation, in determining for the purposes of this section whether services are competitive, shall take into consideration the type, size, and speed of the vessels employed, whether passenger or cargo, or combination passenger and cargo, vessels, the ports or ranges between which they run, the character of cargo carried, and such other facts as he may deem proper, provided, in lieu of the procedure immediately above set out, that with regard to any application filed within 90 days of the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936, for aid in the operation of liner vessels by a currently qualified applicant, the determinations numbered one and four of section 601(a) shall be deemed to have been satisfied, and the Secretary shall make the determinations numbered two and three of section 601(a) without hearings, within six months after the receipt of the application.

F. (§ 606) § 1176. Readjustments; change in service; withdrawal from service; payment of excess profits, wages, etc.; American materials (NOT TO BE AMENDED)

G. (§ 607) § 1177. Capital construction fund (NOT TO BE AMENDED)

H. (§ 607-1) § 1177-1. Small fishing vessel construction reserves (NOT TO BE AMENDED)

I. (§ 608) § 1178. Sale or assignment of contract; consent of Secretary; purchaser subject to terms of contract; rescinding contract or transfer without consent (NOT TO BE AMENDED)

J. (§ 609) § 1179. Withholding payment to defaulting contractor (NOT TO BE AMENDED)

K. (§ 610) § 1180. Vessels eligible to subsidy

(a) An operating-differential subsidy shall not be paid under authority of this subchapter on account of operation of any vessel which does not meet the following requirements: (1) The vessel shall be of steel or other acceptable metal, shall be propelled by steam or motor, shall be as nearly fireproof as practicable, shall be built in a domestic yard or shall have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date, and shall be documented under the laws of the United States, during the entire life of the subsidy contract; and (2) if the vessel shall be constructed after June 29, 1936 it shall be either a vessel constructed according to plans and specifications approved by the Secretary of Transportation and the Secretary of the Navy, with particular reference to economical conversion into an auxiliary naval vessel, or a vessel approved by the Secretary of Transportation and the Navy Department as otherwise useful to the United States in time of national emergency. (As amended Aug. 6, 1981, Pub.L. 97-31, § 12(99), 95 Stat. 162.)

(b) Notwithstanding any other provision of law, any liner vessel over five thousand dead-weight tons documented under the laws of the United States and owned by a citizen of the United States and operated by a citizen of the United States shall be deemed to have been built in the United States (regardless of where actually constructed, reconstructed, or modified on any prior or subsequent date) for the purposes of this title (except section 607), and sections 901(b) and 901a through 901k of this Act.

L. (§ 611) § 1181. Transfer of vessels to foreign registry on default of United States (NOT TO BE AMENDED)

M. (§ 612) § 1182. Subordination of Secretary's interest to Reconstruction Finance Corporation (NOT TO BE AMENDED)

N. (§ 613) § 1183. Off-season cruises by passenger vessels (NOT TO BE AMENDED)

O. (§ 614) § 1184. Suspension of operating-differential subsidy contracts by operator recipients (NOT TO BE AMENDED)

P. (§ 615) § 1185. Construction, reconstruction, or acquisition of vessels over five thousand deadweight tons in foreign shipyards; preconditions

(a) The Secretary of Commerce may, until September 30, 1983, authorize an operator receiving or applying for operating differential subsidy under this subchapter to construct, reconstruct, or acquire its vessels of over five thousand deadweight tons in a foreign shipyard if the Secretary finds and certifies in writing that such operator's application for construction differential subsidy cannot be approved due to the unavailability of funds in the construction differential subsidy account. Vessels constructed, reconstructed, or modified pursuant to this section shall be deemed to have been United States built for the purposes of this subchapter, section 1241(b) of this title, and section 391a(7) of this title: Provided, That the provisions of section 607 of this Act shall not apply to vessels constructed, reconstructed, modified, or acquired pursuant to this section.

(b) The provisions of this section shall be effective for fiscal year 1983 only if the President in his annual budget message for that year requests at least $100,000,000 in construction differential subsidy or proposes an alternate program that would create equivalent merchant shipbuilding activity in privately owned United States shipyards and the Secretary reports to Congress on the effect such action will have on the shipyard mobilization base at least thirty days prior to making the certification referred to in subsection (a) of this section. (June 29, 1936, c. 858, § 615, as added Aug. 13, 1981, Pub.L. 97-35, Title XVI, § 1610, 95 Stat. 753.)

III. SUBCHAPTER VII - PRIVATE CHARTER OPERATION (NOT TO BE AMENDED)

IV. SUBCHAPTER VIII - CONTRACT PROVISIONS (NOT TO BE AMENDED)

V. SUBCHAPTER VIII-A - OFFENSES AND PENALTIES

A. (§804) § 1222. Operating competing foreign-flag vessel forbidden

(a) Except as provided in subsections (b) and (c) of this section, it shall be unlawful for any contractor receiving an operating-differential subsidy under subchapter VI of this chapter or for any charterer of vessels under subchapter VII of this chapter, or any holding company, subsidiary, affiliate, or associate of such contractor or such charterer, or any officer, director, agent, or executive thereof, directly or indirectly to own, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American-flag service determined by the Secretary of Transportation to be essential as provided in section 1121 of this title.

(b) Under special circumstances and for good cause shown, the Secretary of Transportation may, in his discretion, waive the provisions of subsection (a) of this section as to any contractor, for a specific period of time. The Secretary shall grant such a waiver with respect to a currently qualified applicant for: (i) foreign activities carried out by a currently qualified applicant on the date of the enactment of the 1987 amendments to the Merchant Marine Act, 1936; and (ii) future activities where the applicant will have less than a 50% equity interest.

(c) Upon application to the Secretary of Transportation the provisions of subsection (a) of this section shall not apply to the following specified activities of any contractor under subchapter VI of this chapter, or those in the foregoing specified relationship to him, who was not such a contractor on April 15, 1970, and who shall have complied with the requirement set forth in subsection (d) of this section:

(1) Until April 15, 1990 --

(A) the continued ownership, charter, or operation of a foreign-flag vessel engaged in the carriage of dry or liquid cargoes in bulk which was owned, chartered, or operated by such contractor, or those in the foregoing specified relationship to him, on April 15, 1970;

(B) the continued acting as agent or broker for a vessel described in subsection (c)(1)(A) of this section which is owned, chartered, or operated by such contractor, or those in the foregoing specified relationship to him, and for which such contractor, or those in the foregoing specified relationship to him, were acting as agent or broker on April 15, 1970;

(2) Until April 15, 1972, the continued acting as agent or broker for a foreign-flag vessel engaged in the carriage of dry or liquid cargoes in bulk (other than one described in subsection (c)(1)(A)), for which the contractor, or those in the foregoing specified relationship to him, were acting as agent or broker on April 15, 1970.

(d) No contractor under subchapter VI of this chapter, whether he shall have become such a contractor before or after October 21, 1970, shall avail himself of the provisions of subsection (c) of this section unless not later than ninety days after October 21, 1970, there shall have been filed with the

Secretary of Transportation a full and complete statement, satisfactory in form and substance to the Secretary, of all foreign-flag vessels which he, or those in the foregoing specified relationship to him, directly or indirectly owned, chartered, acted as agent or broker for, or operated on April 15, 1970.

(e) During the period of time provided for in subsection (c) of this section, the Secretary of Transportation shall include in the annual report pursuant to section 1118 of this title, a report on the activities of contractors under such subsection, including but not limited to, the nature and extent of such activities; its effect, if any, upon carrying forward the national policy declared in section 1101 of this title; and the Secretary's recommendations for legislation, if such is deemed to be necessary. (As amended Oct. 19, 1980, Pub.L. 96-470, Title II, § 201(b), 94 Stat. 2241; Aug.6, 1981, Pub.L. 97-31, § 12(121), 95 Stat. 164.)

B. (§ 805) § 1223. Forbidden practices relating to coastwise service, salaries, officers, and employees

(a) Foreign trade subsidy contractor engaging in coastwise or intercoastal trade

It shall be unlawful to award or pay any subsidy to any contractor under authority of subchapter VI of this chapter, or to charter any vessel to any person under subchapter VII of this chapter, if said contractor or charterer, or any holding company, subsidiary, affiliate, or associate of such contractor or charterer, or any officer, director, agent, or executive thereof, directly or indirectly, shall own, operate, or charter any vessel or vessels engaged in the domestic intercoastal or coastwise service, or own any pecuniary interest, directly or indirectly, in any person or concern that owns, charters, or operates any vessel or vessels in the domestic intercoastal or coastwise service without the written permission of the Secretary of Transportation. Every person, firm, or corporation having any interest in such application shall be permitted to intervene and the Secretary of Transportation shall give a hearing to the applicant and the intervenors. The Secretary of Transportation shall not grant any such application if the Secretary of Transportation finds it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or that it would be prejudicial to the objects and policy of this chapter. Applications for written permission shall disclose the nature and scope of operations proposed to be conducted in domestic intercoastal or coastwise service. In a hearing under this subsection, the Secretary of Transportation shall consider the impact of a grant of written permission on the operations of persons, firms or corporations operating exclusively in domestic intercoastal or coastwise service. A grant of written permission shall establish such contract terms and conditions as the Secretary determines necessary to ensure that the proposed operations will not (1) result in unfair competition to any person, firm or corporation operating exclusively in domestic intercoastal or coastwise service; (2) be prejudicial to the objects and policy of this Act; or (3) result in diversion, directly or indirectly, of any moneys, property, or other thing of value, used in foreign-trade operations, for which a subsidy is paid by the United States, into any domestic intercoastal or coastwise operations. The provisions of this section shall be applicable to applications for written permission which have not been approved by the Secretary prior to the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936. The Secretary shall issue a final decision regarding any applications filed under this subsection not later than 15 months after the application is filed or 13 months after such date of enactment, whichever is later, and shall establish reasonable time limits for subordinates to reach initial decisions in order to ensure that final decisions are issued by the Secretary by the time specified in this sentence; and provided, that if such contractor or other person above-described or a predecessor in interest was in bona-fide operation as a common carrier by water in the domestic, intercoastal, or coastwise trade in 1935 over the route or routes or in the trade or trades for which application is made and has so operated since that time or if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Secretary of Transportation shall grant such permission without requiring further proof that public interest and convenience will be served by such operation, and without further proceedings as to the competition in such route or trade.

If such application be allowed, it shall be unlawful for any of the persons mentioned in this section to divert, directly or indirectly, any moneys, property, or other thing of value, used in foreign-trade operations, for which a subsidy is paid by the United States, into any such coastwise or intercoastal operations; and whosoever shall violate this provision shall be guilty of a misdemeanor, and provided further, that if a contractor or any affiliate or associate of such contractor was on or before the date of enactment of the 1987 Amendments to the Merchant Marine Act, 1936, in bona fide operation of tug and barge services within the Mississippi and Ohio River systems, their navigable tributaries, the Illinois River (including navigable industrial canals and contiguous harbor service from and in Chicago to Burns Harbor), the Gulf Intercoastal Waterway from Brownsville, Texas to Saint Marks, Florida, its harbors and contiguous navigable streams and waterways, adjacent coastal waters to Fort Myers, Florida, the Tennessee-Tombigbee Waterway, and the Warrior River System and its navigable tributaries, a waiver for services of this type shall be automatically approved, subject only to those geographic limitations, without hearings and simultaneously with the award of subsidy to such contractor under the authority of title VI of this Act.

(b) Contractor in default paying more than specified salary

Whenever any contractor under subchapters VI or VII of this chapter receiving an operating-differential subsidy is in default with respect to any mortgage, note, purchase contract, or other obligation to the Secretary of Transportation, or has not maintained, in a manner satisfactory to the Secretary of Transportation, all of the reserves provided for in this chapter, the Secretary of Transportation shall have the right to supervise the number and compensation of all officers and employees of the contractor.

(c) Repealed. Pub.L. 91-469, § 25, Oct. 21, 1970, 84 Stat. 1034

(d) Employing other persons or concerns as managing or operating agent

It shall be unlawful, without express written consent of the Secretary of Transportation, for any contractor holding a contract authorized under subchapters VI or VII of this chapter to employ and [sic] other person or concern as the managing or operating agent of such operator, or to charter any vessel, on which an operating-differential subsidy is to be paid, for operation by another person or concern, and if such charter is made, the person or concern operating the chartered vessel or vessels shall be subject to all the terms and provisions of this chapter, including limitations of profits and salaries.

(e) Employing Member of Congress

It shall be unlawful for any contractor or charterer who holds any contract made under authority of any provision in this chapter to employ any Member of Congress, either with or without compensation, as an attorney, agent, officer, or director of such person.

(f) Penalty

Any willful violation of any provision of this section shall constitute a breach of the contract or charter in force under this chapter, and upon determining that such a violation has occurred the Secretary of Transportation may forthwith declare such contract or charter rescinded and any person willfully violating the provisions of this section shall be guilty of a misdemeanor. (As amended Aug. 6, 1981, Pub.L. 97-31, § 12(122), 95 Stat. 164.)

Remainder of Subchapter is not to be amended.

VI. SUBCHAPTER IX - MISCELLANEOUS PROVISIONS

A. (§901) **§ 1241. Transportation in American vessels of Government personnel and certain cargoes. (NOT APPLICABLE - except that § 615, as proposed, provides that certain foreign-flag vessels shall be deemed to be U.S. built).**

B. (§902) **§§ 1241-1, 1241a-p (NOT TO BE AMENDED)**

C. (§903) **§ 1242. Requisition or purchase of vessel in time of emergency (NOT TO BE AMENDED)**

D. (§904) **§ 1243. Repealed**

E. (§905) **§ 1244. Definitions**

When used in this chapter --

(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country, except that in the context of section 1177 of this title concerning capital construction funds and in the context of subchapter V of this chapter concerning construction-differential subsidy, the said words "foreign commerce" or "foreign trade" shall also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit U.S.-flag bulk vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters, subject to rules and regulations promulgated by the Secretary of Transportation pursuant to section 1114(b) of this title.

(b) The term "person" includes corporations, partnerships, and associations existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

(c) The words "citizen of the United States" include a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 802 of this title, and with respect to a corporation under subchapter VI of this chapter, all directors of the corporation are citizens of the United States, and, in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall be not less than 75 per centum.

(d) The word "construction" includes outfitting and equipping.

(e) Repealed. Pub.L. 97-31, § 12(133)(B), Aug. 6, 1981, 95 Stat. 165.

(f) The terms "Representative" and "Member of the Congress" include Delegates to the House of Representatives from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner to the House of Representatives from the Commonwealth of Puerto Rico.

(g) The term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979. (As amended Oct. 15, 1980, Pub.L. 96-453, § 3(b), 94 Stat. 2008; Aug. 6, 1981, Pub.L. 97-31, § 12(133), 95 (Stat. 165.)

(h) The term "international trade" means foreign commerce, and commerce between two or more foreign countries.

(i) The term "liner vessel" means a vessel operated by a common carrier on an advertised schedule, giving relatively frequent sailings at regular intervals carrying cargo in international trade.

(j) A vessel which could be operated as provided in paragraph (i) of this section that was on May 12, 1987 --

(1) under charter to the United States,

(2) laid-up, or

(3) to be built subject to an authorization of the Secretary granted under section 615 of this Act,

shall be considered to be a liner vessel operated in international trade for all purposes of this title.

F. Authorization of appropriations for liner vessels' operating-differential subsidy.

There is authorized to be appropriated for the use of the Maritime Administration in fiscal year 1988 for payment of obligations incurred for operating-differential subsidy an amount not to exceed $250,000,000.

April 18, 1988

ANSWERS TO QUESTIONS SUBMITTED TO
UNITED SHIPOWNERS OF AMERICA
BY REPRESENTATIVE LENT FOLLOWING
MERCHANT MARINE SUBCOMMITTEE
HEARING OF MARCH 17, 1988

Question

1. The fourth part of your proposal (on page 3 of the statement) recommends that subsidy be paid only on wages and fringes of U.S. crews (non-wage subsidies would continue on existing vessels).

A. Do you have a yearly per ship cost of your proposal?

B. What percentage of the total vessel operating costs would be covered by your "wage and fringe" proposal?

Answer

1A. Some of our companies have had considerable experience with manning of new automated diesel-powered ships. On these ships it appears the annual ODS cost of wages and fringes can be reliably estimated at approximately $2.0 to $2.7 million per annum. We understand from MARAD that composite foreign wage costs are about $500,000 per annum for similar ships. Older unautomated steam-powered ships require much larger crews and, therefore, have higher ODS costs. Accordingly, it is very important to both operators and Government to allow U.S.-flag liner ships built or acquired abroad to operate in the ODS program. This would modernize the fleet, increase its competitiveness and reduce ODS expense per vessel.

1B. The Maritime Administration has estimated that as a rule of thumb, wages and fringes represent about 42% of total vessel operating costs. The percentage is highest on older steam-powered, unautomated ships and lowest on new, automated diesel-powered ships with smaller crews.

Non-wage items represent 10% of the total ODS paid on older vessels. Operators whose existing contracts authorize non-wage ODS have offered to give this up as soon as they are able to operate automated diesel-powered ships under ODS. Thus, the relatively small amount of non-wage subsidy would be totally eliminated in a few years if operators had the right to operate efficient U.S.-flag liner ships under the program.

Continuation of non-wage subsidy until replacement vessels can be deployed is essential because the older steam-propelled unautomated ships are much more expensive to operate.

For instance, in fuel alone these vessels use almost double the amount of fuel used by diesel-powered vessels which are exclusively used by foreign competition and require a much greater degree of continued maintenance.

Question

2. There has been considerable objection raised about the provision in the Administration's bill regarding the need for annual appropriations for the new ODS contracts. I understand that while this may not be desirable from the point of view of the vessel operators, this has become a standard legislative requirement based on Section 211 of the Gramm/Rudman/Hollings Budget Act.

A. Do you have any information on this point?

B. Do you believe such a provision would work?

C. Are you aware of any instance when this legislative requirement has been waived by Congress?

Answer

2A. B. C. We are among those who strongly object to the Administration's proposal to make a carrier's right to receive ODS under new contracts subject to the availability of appropriated funds. As explained below, that approach is neither desirable, nor required by existing law.

Background

Section 211 of Gramm/Rudman/Hollings, 2 U.S.C. S.651, did not make new law when it was enacted in 1985. That provision was essentially a restatement of section 401 of the Congressional Budget and Impoundment Control Act of 1974, a law that has been with us for nearly 14 years.

That law does not prohibit legislation which would establish the payment obligations of the Government under new ODS contracts as firm contractual obligations of the United States, not subject to reduction due to shortfall in appropriations. Under that law, legislation is subject to a point of order if it does not provide that spending authority created for a fiscal year is subject to the availability of appropriated funds.

Our understanding is that waivers of this rule have been granted through the years - and frequently enough that there is a procedure generally followed. Our understanding is that when an authorizing committee comes to the Rules Committee for a rule on a bill that could be subject to this type of point of order, the Rules Committee will consult with the Budget Committee. The Budget Committee will advise the Rules Committee whether it would agree to a rule waiving such points of order. We have been told that such rules have been issued.

In short, section 211 of Gramm/Rudman/Hollings is not self-enforcing and does not change the basic nature of the task before the authorizing committees - to fashion a good ODS reform bill and advance it. To advance any ODS reform bill, at some point, a larger audience in Congress will have to be persuaded of the bill's merits.

Why the Waiver Approach is Desirable

We turn now to the reasons why ODS reform legislation should provide that U.S. obligations under new ODS contracts are truly binding, and not subject to reduction depending on the terms of appropriations acts.

First, liner services are highly capital-intensive and ships have an economic life in excess of 20 years. Thus, operators must be able to raise large amounts of capital over extended periods of time. In order to get such financing, it is necessary that they demonstrate to banks and other financial institutions that they will have adequate earnings to service their debt. This is simply not possible on competitive terms, if at all, if each year Congress has an option to withhold ODS payments.

Second, the Administration and the Congressional Budget Office have both formally ruled that existing ODS contracts are entitlements which cannot be abrogated without compensation. (A copy of a letter to this effect dated August 25, 1986 from OMB Director James C. Miller, III, to Chairman Walter B. Jones is attached.) In addition, the Administration, Congressional leaders, and the Commission on Merchant Marine and Defense have recognized that ODS is essential if liner operators are to continue U.S.-flag operations and that all operators should be treated equally. It would obviously put new contractors at a disadvantage if their ODS payments were subject to interruption in any given year while old contractors had an assurance of payment.

More importantly, as the goal of the program is a revitalized U.S. merchant marine, any such interruptions in ODS payments would hinder the ability of U.S. operators to compete against foreign flag lines.

Question

3. Do you believe Congress could produce a new ODS program without additional federal outlays in future years over what has been expended in the past several years?

A. Do you envision a reprogramming of funds?

B. Could your needs be met by a redesigned program funded basically at the current level, or with a small increase?

Answer

3A. No.

3B. We believe that initially, a new ODS program may cost slightly more, as new operators join those already in the program. However, for the longer term it appears to USA that a new ODS program is possible without spending more than the Federal Government has spent over the last several years. This is primarily due to the modernization of the vessels involved and to resultant reduction in crew costs.

Question

4. What points do you believe are the most critical to include in an ODS reform bill if agreement could not be reached on all eight proposals in your package?

A. Build foreign?

B. Manning changes?

C. Foreign-flag feeder vessels?

D. Other issues?

Answer

4A.B.C.D. The United Shipowners of America are in the process of making a sincere effort to structure a program which will result in the revitalization of the liner segment of the maritime industry. At the present time we are not in a position to rank the various "reform" points in order of preference since more often than not, each individual liner company has a slightly different perspective of the importance of the various "reform" measures. In addition, our proposals are linked together into an integrated program and all are necessary to make the new scheme work for all U.S. liner operators. The right to acquire modern, foreign built liner ships is at the core of our program. However, it is not the only important factor.

Question

5. We often hear that if the American carriers could only be given fair access to cargo, then artificial props like ODS would no longer be needed.

A. Do you concur in that assessment?

B. Did any American operators recognize any increase in cargo after the bankruptcy of U.S. Lines?

C. What steps have been taken by American operators to become more competitive with the foreign competition in terms of seeking out new cargoes?

Answer

5A. In order to be competitive, U.S.-flag liner operators must have fair access to cargo but must also have capital and operating costs that are on a par with those of foreign competitors. Thus, while ensuring fair access to cargo is essential, it does not in any way resolve the cost problems which are addressed through ODS and foreign building.

During four major wars in this century, the United States has found it essential to have trained citizen seamen available to man the merchant ships which support our military forces. In order to ensure that such a pool of seamen is available, the government requires U.S.-flag operators to employ U.S. citizen seamen. Since the U.S. standard of living requires higher wages and fringe benefits than are received by virtually all foreign seamen, the government pays the U.S. operators an amount sufficient to put their wage costs on a parity with those of their actual competitors. Thus, ODS is not an "artificial prop" but dollar-for-dollar reimbursement for the added costs a company bears through employing U.S. citizens.

5B. Yes. U.S. and foreign operators each secured some of the cargo formerly carried by United States Lines. It is our understanding that market forces have probably divided up the U.S. Lines' cargo on a pro rata basis. Thus, the vast majority of that cargo is now being carried on foreign lines. As a result, the U.S.-flag share of our nation's liner cargo has declined.

5C. U.S. liner operators have been in the forefront of each and every innovative and competitive change in the liner industry, beginning with the concept of containerization itself. In addition, the U.S. liner industry has pioneered the way and spent billions of dollars in designing, building and acquiring the most technologically advanced ships and ancillary equipment available on the world market.

Automation on diesel ships has reduced crew size from around 40 to 21 men. The introduction of slow-speed diesel propulsion has cut fuel consumption by as much as 50%. The sophisticated intermodal services and automated terminals pioneered by U.S. operators are the most advanced in the world. We are particularly proud that U.S. companies developed and introduced the efficient double-stack train serices that are only now being copied by our foreign competitors. U.S. operators also have the most sophisticated electronic data interchange systems in the industry.

All of these steps put the U.S. carriers in a good position to increase market share and profitability if legislation is passed to remove restrictions and permit participation of modern foreign acquired or built ships in the ODS program.

This process, however, is being slowed down, putting the industry at risk, by the ship acquisition policies of the U.S. government U.S. flag subsidized carriers are currently unable to build in the U.S. (because of the elimination of shipyard subsidies), or abroad because of "build American" requirements. In that regard, we take this opportunity to particularly commend Maritime Administrator Gaughan for the understanding of the ship acquisition problem which he demonstrated at the Committee's March 30 hearing and for his support at the hearing for authority for U.S. liner carriers to acquire ships built abroad for use in subsidized service.

Question

6. Do you believe that any ODS reform bill should be limited just to the liner trades and exclude any changes to the bulk trades?

Answer

6. Yes. The Administration and over 95% of the U.S. liner industry are agreed that immediate ODS reform legislation is required. We are not aware of a similar consensus on legislation to aid U.S. bulk operators.

Question

7. Are you comfortable from the standpoint of the safe operation of your vessels with the manning levels that would be mandated in the Administration's legislation?

Answer

7. The Administration's proposal would limit ODS payments to the members of a crew required by Coast Guard regulations. This would be sufficient for safe manning. However, the Coast Guard in setting its requirements looks only at safety and does not consider the commercial nature of the venture and the need for crewmen to victual a ship or to operate special equipment, such as self-sustaining cargo gear. Since all operators, both U.S. and foreign, must have some steward's department personnel and occasionally one or two specialized equipment operators, we believe that the wages of such seamen must be subsidized if U.S. operators are to have cost parity with their foriegn competitors.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON D.C. 20503

AUG 25 1986

Honorable Walter B. Jones
Chairman, Committee on Merchant Marine &
  and Fisheries
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

After the first sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings), you requested an analysis of the Act's application to the Operating Differential Subsidy (ODS) program. More specifically, you wanted to know the basis for the determination by the Congressional Budget Office, the Office of Management and Budget and the Comptroller General that the ODS program is not subject to sequestration.

As you are aware, the ODS program is solely comprised of prior-year contracts, the most recent of which was signed in 1981. The basis for our determination that the ODS program is exempt from sequestration is that the obligation to make ODS payments occurred at the time these contracts were signed. Under Section 256(1) of Gramm-Rudman-Hollings, obligated balances are exempt from sequestration. In order to reflect the outstanding ODS obligations under the existing contracts explicitly in the future, our best estimate of those obligations will be shown as an obligated balance that will be reduced as ODS payments are made.

I appreciate your interest in understanding fully the application of Gramm-Rudman-Hollings to the ODS program.

Sincerely yours,

James C. Miller III
Director

MARITIME PROMOTION

WEDNESDAY, MARCH 30, 1988

House of Representatives,
Subcommittee on Merchant Marine,
Committee on Merchant Marine and Fisheries,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:10 a.m., in room 1334, Longworth House Office Building, Hon. Walter B. Jones (Chairman of the Subcommittee) presiding.

Present: Representatives Jones, Anderson, Pickett, Lent, Saxton, Bentley, and Coble; Representatives Hughes, Member, Committee on Merchant Marine and Fisheries

Subcommittee staff present: Cynthia M. Wilkinson, chief counsel; Gregory L. Lambert, counsel; Kip Robinson, minority counsel; and Ann M. Mueller, subcommittee clerk.

Committee staff present: Edmund B. Welch, chief counsel; Gerry Seifert, general counsel for maritime policy; John Cullather, staff assistant; George D. Pence, minority staff director; Rusty Johnston, minority counsel; and Gwen Lockhart, chief minority clerk.

STATEMENT OF HON. WALTER JONES, A U.S. REPRESENTATIVE FROM NORTH CAROLINA AND CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE

Mr. Jones. The Subcommittee will come to order.

Good morning. Today, the Subcommittee continues its hearings on the operating-differential subsidy (ODS) program. This program is the principal means of national support for our U.S.-flag merchant marine. In recent years, it has become evident that the system has problems and requires modification. Additionally, as the work generated by the 600-ship Navy program subsides, it has become clear that the United States shipbuilding industry cannot survive without some additional assistance. In 1981, when we agreed to zero-budget construction-differential subsidy [CDS], we insisted that the program remain on the books pending an alternate shipbuilding promotional program.

The Administration has ignored the deterioration of the shipbuilding base, and now the President's Commission on Merchant Marine and Defense tells us that the country is in trouble if we don't, this year, get some program enacted.

The task confronting the Subcommittee is to develop legislation that will address the numerous problems that we have identified. The legislation will seek to assure the survival of both ship operators and shipbuilders. The cost of the program is of as much concern to us as it is to the Administration; but, as they say, there is no such thing as a free lunch. If the United States expects to have a fleet and shipbuilding and repair facilities available in time of crisis, then we must fund the programs necessary to achieve these goals now. Promotional reform is not likely to be enacted, nor should it be, without a program in place for our Nation's shipyards.

I am strongly committed to the enactment of meaningful promotional reform legislation. In the past, I have been disappointed at the pace set by the Department of Transportation and the Maritime Administration. It took an unreasonable period of time to prepare the broad outlines of an ODS reform program and many additional months to submit a legislative proposal.

However, I am gratified by Secretary Burnley's pledge before this Committee on March 3, 1988 that ODS reform is his major maritime goal for this year.

I look forward to working with the Department to ensure enactment of a legislative package that meaningfully responds to the recommendations of the Bennett Commission.

Mr. JONES. I recognize the Ranking Minority Member, Mr. Lent.

Mr. LENT. Thank you, Mr. Chairman.

STATEMENT OF HON. NORMAN LENT, A U.S. REPRESENTATIVE FROM NEW YORK AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON MERCHANT MARINE

Mr. LENT. I have a few extemporaneous remarks that I'd like to make.

Mr. Chairman, I hope that this second day of hearings on proposals to support and promote our American maritime industry will shed some light on possible compromises as we look for a legislative solution to the problems confronting the vessel operators.

At the first day of these hearings, March 17, we heard from representatives of the Commission on Merchant Marine and Defense and the steamship companies. Today, I'm delighted to welcome the Honorable John Gaughan, Administrator of the Maritime Administration; Vice Admiral Walter Piotti, Commander of the Military Sealift Command; and Mr. James Orlando from the U.S. Postal Service.

I will be interested in hearing from the Government representatives their views on the type of legislation they believe would be helpful in promoting this sector of our maritime industry.

I also look forward to hearing testimony from the representatives of the Shipbuilders Council, since their problems and concerns could become a key part of this whole proceeding.

All elements involved in this matter are going to have to work together to seek a common ground. The Executive Branch is well aware of the problems and needs for the commercial carriage of cargo, as well as the military sealift requirements. The operators know their needs in order to compete in the international market; and, of course, the shipbuilding industry may not be able to hang on much longer if there is not some kind of additional program to stimulate construction in American shipyards.

The bottom line, however, is that additional Federal funds will be required. It will be critical to develop balanced and fiscally sound legislation, given the conditions that we are living with today. However, without compromises from all sides, there will be no ODS reform bill this Congress, so we all need to be working together on this.

Thank you, Mr. Chairman.

Mr. JONES. Mr. Anderson.

Mr. ANDERSON. Thank you, Mr. Chairman.

STATEMENT OF HON. GLENN M. ANDERSON, A U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. ANDERSON. Thank you, Mr. Chairman.

Today, we are considering an issue of vital economic and national security importance; namely, the future of the operating-differential subsidy program.

The ODS issue is not simply an important one that needs to be addressed by this Subcommittee in a sensible and cooperative manner. It's also a difficult one, given the variety of players who are concerned over the future of ODS, including subsidized and unsubsidized foreign commerce operators, domestic operators, maritime labor, and, of course, the shipbuilding industry.

I believe in the need for action on ODS and other maritime promotional programs. I hope that all the players involved in the debate on ODS can work together in some manner to ensure that one industry is not sacrificed for the promotion and strengthening of another. Moreover, given the current budgetary era, this cooperation becomes increasingly important.

The need for consensus, flexibility, and creativity in the task of restoring our entire maritime industry is greater than ever before, and I hope this Committee, the entire Congress, and the Executive Branch will respond accordingly.

Today's hearing, of course, is a continuation of our March 17 hearing. Then we had the opportunity to hear from the liner industry as well as the Commission on Merchant Marine and Defense. We'd be leaving out a critical voice in the ODS reform debate unless we have the opportunity to hear from the shipbuilding industry, and I'm pleased that we will have this opportunity today.

Mr. Chairman, there are a number of bills out there on the issue of ODS reform. There are also seven recommendations that have been made by the Commission on Merchant Marine and Defense to revitalize this Country's maritime industry.

I sincerely hope that the large number of bills on ODS reform, and the seven clear recommendations offered by the Commission on Merchant Marine and Defense, will help this Committee move forward in assisting both the shipbuilding industry and the liner industry. Each one is no less critical than the other to this Country's national defense.

I look forward to today's testimony.

Mr. JONES. Thank you.

Mr. Saxton.

Mr. SAXTON. Thank you, Mr. Chairman.

STATEMENT OF HON. JIM SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. SAXTON. I would like to just say, first, thank you and congratulations to you for the great amount of interest that you, as Chairman of this Committee, have in this subject.

I would also like to associate myself with the remarks of Mr. Lent, the Ranking Minority Member, particularly when he mentioned the cost involved and the necessity of deciding how we're going to proceed in the most effective and efficient fiscal way that we can.

I think that, through a process like this, at certain points you begin to draw certain conclusions. I'm sure we're all doing that. I think that one of the most important points that we should all recognize, all of us on the Committee as well as the Administration, is that, if we're going to do something to vitalize the shipbuilding industry and the shipping industry in our Country, there is no free lunch. We have to recognize that, I think, at the outset.

Whether we're talking about a build-and-charter program that costs the Federal treasury money; whether we're talking about direct subsidies that cost the Federal treasury money; or whether we're talking about requiring certain U.S. goods to be shipped on U.S. ships, that costs somebody money. If we're talking about foreign procurement of ships, that costs somebody money, particularly the shipbuilding industry in our Country.

As we begin to seriously consider which route we're going to go down in terms of revitalizing the shipping industry, we must keep in mind that we're going to spend somebody's money to get this job done. As Mr. Lent suggested, we need to make the decision as to how we're going to do that as efficiently as we possibly can.

I'm pleased to take part in this hearing this morning. Frankly, as a former businessman who gets frustrated sometimes with the lack of decisions being made, I hope that we can proceed to make those decisions in an expedited fashion as, again, Mr. Lent points out.

Thank you again, Mr. Chairman.

Mr. JONES. Thank you, Mr. Saxton.

[The prepared statements of Mr. Pickett and Mrs. Bentley follow:]

STATEMENT BY HON. OWEN B. PICKETT, A U.S. REPRESENTATIVE FROM VIRGINIA

Mr. Chairman, the Subcommittee today continues the hearings it began earlier this month on reform of the operating-differential subsidy program.

It has now been more than two months since the President's Commission on Merchant Marine and Defense issued its report, which I think we can all agree represents a clear and compelling call for action to be taken in this area. The Nation suffers dangerous shortages in merchant vessels, crews to man them, and shipyards to repair them. And as you have noted, Mr. Chairman, the latter problem may grow worse in the 1990's as the work generated by our move toward a 600-ship Navy diminishes.

The Merchant Marine Act of 1936 established the construction-differential subsidy (CDS) program and the operating-differential subsidy (ODS) program as means of ensuring the economic livelihood of the U.S. shipping industry. The CDS program has been zero-funded since 1981, and the Administration has not come forward with any kind of promotional program to fill the void.

The ODS program, which continues in place, is the subject not only of our hearing this morning but of several reform bills introduced by Members of this Subcommittee.

I look forward to hearing the testimony of Administrator Gaughan on the ODS reform packages before us and, specifically, what the Administration would like in an ODS proposal. It seems to me, Mr. Chairman, that the time has come for the Administration and those of us in Congress to stop decrying the problems with ODS and our merchant fleet in general and to start doing something about it. The bills before the Subcommittee give us that opportunity.

STATEMENT OF HON. HELEN DELICH BENTLEY, A U.S. REPRESENTATIVE FROM MARYLAND

Thank you, Mr. Chairman. And, thank you, Mr. Lent.

The merchant marine and shipbuilding industries of the United States have been and continue to be in a dire state of decline. This unfortunate fact has been verified by the President's Commission on Merchant Marine and Defense.

Both of these industries are in urgent need of Federal assistance if they are to continue to be a viable part of the American industrial base and an asset to our national defense and mobilization. Any attempt by the Congress or our Federal Government to treat these industries separately would be unfair and detrimental to our national security. The future of the U.S. shipbuilding industry is inexplicably tied to our merchant marine and its requirement to rebuild its fleet. It is also tied to the full compliance and support of the Jones Act. I fully support both of these industries, but I am unwilling to sacrifice one for the sake of the other. Any action by this Subcommittee must take into account the needs and requirements of both.

Mr. Chairman, I want to pledge to this Subcommittee and to the industries that I am more than willing and anxious to develop legislation that will adequately address the concerns of our merchant marine and shipbuilders.

Thank you, Mr. Chairman.

Mr. JONES. Our first panel this morning is headed by the Hon. John Gaughan, Administrator of the Maritime Administration. He is accompanied by Mr. Richard Bowman, Associate Administrator, Robert J. Patton, Jr., Deputy Chief Counsel, and Arthur B. Sforza, the Director of the Office of Ship Operating Assistance.

Mr. Gaughan, the Chair recognizes you.

STATEMENT OF HON. JOHN A. GAUGHAN, ADMINISTRATOR, MARITIME ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY RICHARD E. BOWMAN, ASSOCIATE ADMINISTRATOR; ROBERT J. PATTON, JR., DEPUTY CHIEF COUNSEL; AND ARTHUR B. SFORZA, DIRECTOR, OFFICE OF SHIP OPERATING ASSISTANCE

Mr. GAUGHAN. Thank you very much, Mr. Chairman.

Mr. Chairman, I appear before you this morning with some comments that I hope will be of assistance, and to work with you, the Committee, and the maritime industry in order to reach a consensus on ODS reform that will result in the enactment of urgently needed legislation to revitalize the U.S. liner fleet.

When Secretary Burnley appeared before the full Merchant Marine and Fisheries Committee earlier this month (March 3), he testified that the Department of Transportation is committed to fostering the ability of the U.S.-flag fleet to operate on an equal competitive footing with foreign-flag carriers, while recognizing that the cost of any restructured support program must be fiscally responsible. ODS reform is one of the Department's top legislative priorities this year.

Therefore, I plan to make some general comments on what we believe to be the most important elements of the various bills before you this morning, using the Administration's bill, H.R. 3537, as the benchmark.

As you know, four of these five bills would modify existing law in order to reform the ODS program for liner operators. Only one bill, H.R. 2462, Chairman Jones' MAST bill, would provide a long-term alternative to operating subsidy as we know it today.

The elements of all these bills, that I consider most important, and would like to comment on, are as follows:

First, the award of ODS. The award of ODS is discretionary under the current law. Current policy precludes new ODS awards or a significant increase in existing ODS contracts. As a result, some U.S.-flag liner operators enjoy subsidy, and some do not. One of the functions of ODS reform would be to provide all U.S.-flag liner operators with a level playing field. Our proposal, as set forth in H.R. 3537, would provide a one-year window for currently unsubsidized operators to apply for ODS in the form of grants and for existing operators to amend their contracts.

Of the remaining bills, all but H.R. 3808, the so-called three-carrier bill, would provide a measure of assurance for the entry of new ODS operators.

H.R. 3297, 2462, and 1088 would generally provide for mandatory ODS awards, an approach that is unacceptable to the Administration.

Secondly, there is fiscal responsibility. In order for any restructured ODS program to be fiscally responsible, it is necessary that all U.S.-flag liner operators be given every opportunity to cut costs and generate income. I am pleased to note that most of the five bills make some provision for this. The most important of these are the following.

Worldwide acquisition: as you know, for some time now, the Administration has held the strong view that, if our liner operators are to compete effectively in our foreign trades, they must be able to construct or acquire their vessels anywhere. This has been a very controversial proposal, but it's interesting to note that all but H.R. 3297 and H.R. 2462 make some provision for permanent authority to acquire foreign-constructed vessels. H.R. 3808 and H.R. 1088 also have a provision similar to our proposal that these foreign-built vessels would be immediately eligible to transport preference cargo.

Another element of fiscal responsibility deals with subsidized wage costs and manning. At the present time, manning is determined at the time of the construction or reconstruction of a vessel, or when a vessel changes ownership. Subsidy is paid for all wage costs negotiated through collective bargaining in accordance with existing law. Our proposal would generally provide that ODS would be limited to wages in the industry's most economical wage package for Coast Guard-required manning only.

Currently subsidized operators would shift to the wages-only system after three years. Newly subsidized operators would be limited to wages only from the start. In our view, it is unfortunate that only one bill, H.R. 3297, would provide similar discipline for ODS costs.

H.R. 2462, your MAST bill, Mr. Chairman, is not comparable, as MAST payments would not be related to manning and wage costs. H.R. 1088 would limit ODS to wage costs, but there appear to be no other cost restrictions. Finally, H.R. 3808, the three-carrier bill, contains no cost efficiencies whatsoever.

Mr. Chairman, as we all know, some of the major maritime nations, principally in Western Europe, are placing some or all of their merchant vessels under so-called international registries, in an attempt to maintain control over their national fleets and permit reduction of personnel costs through employment of non-national seamen. Therefore, it is crucial that we institute some reasonable cost-control measures in this area, so that we can improve the competitiveness of U.S.-flag liner vessels.

Operating flexibility: At the present time, U.S.-flag liner operators are restricted to 30 or 34 trade routes, as specifically defined in ODS contracts. Under current law, requirements for any changes are always time consuming and costly.

It is generally agreed that operating flexibility would greatly enhance the ability of our liner operators to operate profitably. Our proposal would generally remove all restrictions on the subsidized and unsubsidized operation of U.S.-flag liner vessels in our foreign trade. Restrictions in the other bills appear to be designed to protect the rights of small operators, provide a transition period for all operators, and accommodate special operations sanctioned by a particular bill.

H.R. 3537 encourages market expansion by U.S.-flag carriers, particularly intermodal carriers, by permitting these carriers to issue through bills of lading between the original port of lading to the port of final discharge. This service may utilize a combination of U.S. line haul vessels with U.S.- or foreign-flagged delivery vessels, under terms and conditions determined by the Secretary of Transportation. The provision of law requiring the use of United States-flag vessels would be deemed fulfilled under this arrangement, other than certain requirements of the Department of Defense.

There is a general consensus that operating flexibility is required, and I believe we should be able to reach some form of agreement on this issue.

Mr. Chairman, these provisions—worldwide acquisitions, reduced subsidy per ship, and increased operating flexibility—are critical to the success of any ODS reform legislation.

Cargo preference reform is another important element of any such legislation, when any preference cargoes are transported. As you know, at the present time, subsidy is paid but reduced if preference cargo revenues exceed certain limits. Under H.R. 3537, the Administration's bill, ODS would not be paid for the transportation of preference cargos. H.R. 2462, the MAST bill, takes a similar approach, but none of the other bills appears to address this problem of double subsidy.

In addition, the Administration's bill would eliminate the requirement for the carriage of preference cargo by geographical area and permit a combined U.S.- foreign-flag service in the carriage of such cargoes. The other bills do not have these provisions.

Finally, there is program cost. In any legislation of this type, the bottom line is always the cost to the American taxpayer. We estimate that our ODS reform proposal would involve a modest cost increase of from $300 million to $500 million over current contract liabilities for the next 10 years, and only $100 million during the first five years. These figures are in constant dollars. This is the maximum cost increase acceptable to the Administration in the current budget climate.

In return for the added cost, H.R. 3537 permits entry of additional vessels into the program through a reduction of ODS cost per vessel, and a limit on the number of ships subsidized per company per year.

Assuming no new operators or vessels would gain entry into the program under H.R. 3808, this bill would result in no additional cost. It would, however, preserve the existing high per-vessel ODS cost, as well as increase the advantage existing subsidized operators enjoy over unsubsidized operators who are not assured equal access into the program under that bill.

We estimate that all the other bills would involve substantial cost increases that cannot be justified at this time.

Mr. Chairman, that concludes my very brief remarks this morning on the five ODS reform bills.

In closing, I would like to emphasize the Administration's support for ODS reform that will assist U.S.-flag operators in becoming more competitive with foreign-flag operations. Our desire is to work with you to enact a reasonable and fiscally responsible measure that would improve the competitiveness of the U.S.-flag liner fleet.

I'm prepared to answer any questions you might have, Mr. Chairman.

[Mr. Gaughan's prepared statement may be found at the end of the hearing.]

Mr. JONES. Thank you, Mr. Gaughan.

Are there any other members of your panel who wish to testify?

Mr. GAUGHAN. No, sir.

Mr. JONES. Mr. Gaughan, the President's Commission on Merchant Marine and Defense called on the President to declare a national maritime policy. When can we expect that to be issued?

Mr. GAUGHAN. Mr. Chairman, as I mentioned——

Mr. JONES. I think you answered this last week when you were here, but——

Mr. GAUGHAN. I have no new additional information on the timing. I will attempt to see if I can get a better picture for you, Mr. Chairman. Unfortunately, I didn't have a chance last night.

Mr. JONES. The President's Commission recommended procure-and-charter legislation. Would the Administration support this type of legislation? Is there any reason why liner promotion and reform and build and charter should not be dealt with in the same bill?

Mr. GAUGHAN. Mr. Chairman, I would genuinely hope that the Administration, in its review of the Commission's report, will, in fact, take a position on the procure-and-charter recommendation.

I do have to note that, while the Commission did not do a detailed cost study, there are substantial costs associated with the procure-and-charter program. Nonetheless, I would hope that the Commission's recommendation and the basis for that recommendation would serve as a foundation on which decisions could be made, recognizing all the other factors.

However, I don't believe, Mr. Chairman, that we can afford to link the two programs. We have two segments of the industry that are under severe stress. But, I don't think we can afford to have both of them continue their downward spiral without dealing with the liner operators' problems directly and immediately.

Mr. JONES. Would you have someone on your staff work with ours to see if there's some way of including an international registry component in our promotional system that protects U.S. labor as well as responding to budget requirements?

Mr. GAUGHAN. Mr. Chairman, I would most certainly be prepared to do that. I think it is a very interesting question. There are obviously a large number of issues and questions that need to be looked at as you address it. But, I will make available to you whatever members of my staff are needed, sir.

Mr. JONES. Thank you.

We understand that MARAD has received an application for ODS for two bulk vessels owned by Falcon Carriers. What's the status of that application?

Mr. GAUGHAN. Mr. Chairman, subject to correcting it for the record, that application was published in the Federal Register just very recently—the middle of this month. The closing period, I believe, is tomorrow. Consequently, I'm not in a position to comment on that application until the period closes and we have a chance to evaluate the comments.

I can provide for the record some details of that application by Falcon Carriers. I won't take the time of the Committee. It's a fairly complicated application.

Mr. JONES. Thank you.

[The material referred to follows:]

STATUS OF FALCON CARRIERS' APPLICATION FOR ODS

Falcon's application of February 12, 1988 proposes to include two product tankers, the *Falcon Leader and Falcon Champion,* under already existing ODS contracts of affiliated companies, Equity Carriers I, Inc.; Equity Carriers III, Inc.; and Asco-Falcon II Shipping Company, which operate three dry bulk carriers—*Star of Texas, Pride of Texas,* and *Spirit of Texas*—under Operating-Differential Subsidy Agreement Contract MA/MSB-439. The applicants request a sharing system in which the existing ODS contract would be expanded to include the *Falcon Leader and Falcon Champion* on a basis where in any year only three ship-years worth of ODS would be payable for the five-ship group. This application was published in the Federal Register of March 14, 1988, under Docket S-825 with a closing date of Thursday, March 31. American Trading Transportation Co., Inc. opposes the application while the Berger group supports it. The Maritime Subsidy Board will consider these comments, and take such action as may be deemed appropriate.

Mr. JONES. Mr. Gaughan, should the existing reform of the ODS program also include bulkers and other non-liners such as car carriers, in order to increase the size of the fleet?

Mr. GAUGHAN. Mr. Chairman, I think you can tell by our proposal that the primary focus of the Administration is on liner operations. With the exception of three or four provisions, it deals almost exclusively with liners. Other provisions include bulk operations.

I think that, at this point, it is best to focus on the liners because of the unique circumstances of some of the other types of vessels that are out there.

Mr. JONES. The MAST program provides that the Department of Defense will determine the necessary fleet size. Then, the Nation will provide subsidy to enough vessels to meet that need, thus linking the subsidy to recognized defense needs.

Does that seem like a wise approach to you? Is that satisfactory to you in your Department?

Mr. GAUGHAN. Mr. Chairman, I think that there are a number of issues that have to be looked at before I can give you a complete answer. Let me tell you what I mean by that.

The MAST bill proposes a flat rate subsidy. Well, when I began to think of what will make up that flat rate, I found myself having a difficult time determining what the flat rate would be. Would the flat rate be based on the historic cost of what the acquisition and maintenance of the RRF vessels were? If that's the case, it's subject to many variables, not the least of which are political ones. The cost of vessels can change. There are, obviously, decisions to be made on what level of maintenance and repair to complete on an annual basis on the RRF vessels.

As these factors change, they could have a substantial effect on the flat rate. So, I have not yet worked my way through it, sir, to be able to give you a straight yes or no answer. But, I do see some major issues that have to be dealt with.

The size of the fleet, for example. There are people in this room who would argue as to what the makeup of the fleet should be. You have subsidized and unsubsidized operators, Jones Act operators, allied shipping, effective U.S. controlled shipping, and so forth. The mix of ships required for sealift and defense needs changes depending on the planning scenario used. So, as I thought about it; it became a much more difficult issue than it had appeared on the surface.

Mr. JONES. Thank you.

Sir, what would be the effect on cargo preference rates if the so-called double subsidy were eliminated?

Mr. GAUGHAN. Mr. Chairman, I think it's fair to say that in some cases, with the elimination of the subsidy on premium-rated cargoes, the freight rates might, in fact, go up. But, I don't want to stop there. I don't think that really gets to the heart of it. There are significant other reforms in this legislation that would allow for more efficient operations for the carriage of preference cargoes.

U.S.-flag operators are already in vigorous competition, and I think that overall you might very well find that those competitive forces would offset any higher costs that resulted from the elimination of the subsidy.

Mr. JONES. Thank you.

The Administration's proposal limits the number of vessels that the large operators may have under the subsidy to the number they have operating in the past two years. Doesn't this by definition limit the size of the U.S. fleet, and is the size of that fleet adequate to meet U.S. defense needs?

Mr. GAUGHAN. First of all, Mr. Chairman, the size of the U.S. fleet should not be considered as just the subsidized vessels. It is larger than that. Our ODS proposal calls for the allowance of new entrants, and, consequently, we would see this as an expansion of its coverage. Obviously, the adequacy of sealift is of continuing concern to the United States and to defense planners in particular. I don't see this bill as necessarily limiting the fleet.

Mr. JONES. Mr. Anderson of California, who was here earlier this morning and who had to leave, asked me to ask a question or two of you, Mr. Gaughan.

Vessels built under the procure-and-charter program are to be designed with militarily-useful features to provide critical sealift in times of national emergency. Do you believe that it would be in the best interests of the Nation from a security standpoint that these vessels have priority preference to Government-impelled cargo in peacetime?

Mr. GAUGHAN. Sir, if these vessels are provided at a charter rate that is competitive with the rest of the U.S. fleet, I'm not sure that they should be given a priority.

Mr. JONES. Mr. Lent.

Mr. LENT. Thank you, Mr. Chairman.

Mr. Gaughan, when the Committee heard from Secretary Burnley, we asked him if he thought the requirement in the ODS bill, H.R. 3537—the Administration's bill—that new contracts be subject to annual appropriations would make things difficult for the operators. As I recall, he felt that it might.

I understand that part of the justification for this provision has something to do with the language in the Budget Act. Could you explain this issue? Do you think the requirement would make good programmatic sense?

Mr. GAUGHAN. Mr. Chairman, let me give you a fairly technical answer on that. I had the same question. The Budget Impoundment and Control Act makes a bill which proposes new budget authority to be subject to a point of order, unless provision is made for annual appropriations. As a technical matter, the contract authority granted to the Secretary in the current law is not fully subject to annual appropriations.

Existing ODS operators are funded on a contract authority basis that was in place prior to passage of the Budget Act, but this cannot be extended to new operators without potentially being subject to a parliamentary challenge in both Houses. In essence, sir, what that means is that, as I understand it, an accommodation will have to be made to the Budget Act.

I don't think it makes programmatic sense, quite frankly. But, at this point, I don't see a way out that I can propose. Certainly, the Congress can address that issue, but I find myself in that box. Also, the budget summit agreement did not include the extra cost of some of these bills. If all these costs were accounted for up front, the Congress would have to find $820 million in offsetting reductions to keep from violating the summit agreement.

The ironic twist to it, Mr. Lent, is that, if I understand it correctly, this up-front accounting, or "grossing up," in fact, does not result in any additional appropriations being required, but it makes it appear as though all program costs are borne in year one of the new program.

Mr. LENT. I thank you for that explanation.

The Administration's ODS bill would eliminate the so-called double subsidy of an ODS operator carrying Government-impelled cargo. Needless to say, the operators oppose this provision. They say it is not necessary, and that operators need the cargo to survive. My question is, could you give us either now, or for the record, detailed figures on this issue in terms of tonnage and dollar value of the cargoes involved? Secondly, would U.S. carriers continue to be available to carry Government cargoes if they had to repay their ODS?

Mr. **Gaughan**. On the first part of that, Mr. Lent, if I could, I'd like to provide that for the record.

On the second part of it, I do believe that there are carriers out there who would be available to compete for that cargo, yes, sir.

Mr. **Lent**. Okay.

[The material referred to follows:]

(Source: MARAD, August 1988)

Preference Cargo
1986
(Dollars in Thousands)

	Preference Civilian	Preference Military	Total Preference	Total All Cargo	Percent
APL					
TR Line A	--	25,600	25,600	271,500	
Line AX	--	11,600	11,600	200,932	
Line B	--	5,700	5,700	151,051	
Line BX	3,270	3,930	7,200	152,748	
TOTAL			50,100	776,231	6.5
FARRELL					
TR 14-(West African)	110	24	134	8,195	
10 (Mediterranean)	--	19,002	19,002	100,407	
TOTAL			19,136	108,602	17.6
LYKES					
TR 13	1,117	4,196	5,313	50,589	
15b	5,588	1,271	6,859	35,320	
21	31	7,850	7,881	59,146	
22	--	--	--	12,020	
29	1	3,562	3,563	42,357	
31	263	1,305	1,568	30,159	
4	1,567	--	1,567	5,983	
TOTAL			26,751	235,574	11.4
USL (S.A.)					
TR 15A			--	5,088	
1 & 1/4			3,073	152,866	
TOTAL			3,073	157,954	2.0
USL, Inc.					
TR 5-7-8, 9/11			26,716	142,918	
12/29			33,882	187,526	
TOTAL			60,598	330,444	18.3
WATERMAN					
TR 18/17			27,393	86,128	
TOTAL			27,393	86,128	31.8
GRAND TOTAL			187,051	1,694,933	11.0

Mr. **Lent**. The Administration's bill would grant immediate eligibility to all foreign-built vessels to carry Government-impelled cargoes. This would cover both bulk and liner vessels. Why were bulk vessels included in what otherwise appears to be a liner bill?

Mr. **Gaughan**. Mr. Lent, as we proceeded to develop this legislation, we were looking at the question of cargo preference on a programmatic basis. We're attempting to bring some efficiencies and economies into the whole program. That's how bulkers were included.

I should say, Mr. Lent, that I recognize certain segments of the bulk industry have concerns about that provision, and I would be willing to work with you and other Members of the Committee to better understand that concern and to see what we could do to accommodate it.

Mr. **Lent**. Well, I appreciate that. We have heard the concerns of the bulk vessels with respect to this provision. In connection with your offer to work with us on that, it would be helpful if you had any figures on what impact this proposal would have on existing bulk operators. Do you have that now?

Mr. **Gaughan**. I don't have that now. No, sir.

But I will attempt to develop what we can.

[The material referred to follows:]

IMPACT OF REMOVAL OF 3-YEAR WAITING PERIOD ON EXISTING BULK OPERATORS

The impact on existing bulk operators of removing the 3-year waiting period for the entrance of foreign-built bulk cargo vessels into the preference trades depends on a number of variables that are virtually impossible to project at this time. We would need to determine how many bulk cargo vessels would be constructed abroad under the Administration's proposal and what the costs of those vessels would be. Additionally, given that such information could reasonably be estimated, we would need detailed information concerning the current capital cost position of U.S.-flag bulk operators. That information is not now available for many bulk cargo vessels. In view of the foregoing, detailed estimates of the impact of the Administration's proposal on existing bulk operators cannot be reasonably estimated.

Mr. **Lent**. Mr. Chairman, my time is up.

Mr. **Jones**. Mr. Pickett.

Mr. **Pickett**. I thank you, Mr. Chairman.

I'm sorry that I didn't get here to hear all of your testimony this morning, but in light of the report—the interim reports of the President's Commission on Merchant Marine and Defense, it doesn't seem like the Administration's proposals on the merchant marine are responsive to our Nation's needs, either from the standpoint of transportation or from the standpoint of our shipbuilding industry.

Has any overall plan responsive to the Commission's findings been designed by this Administration?

Mr. **Gaughan**. Mr. Pickett, as I'm sure you're aware, the recommendations were submitted at the end of January. The National Security Council has indicated that it is their intent to respond to the Commission after consulting with other Executive Branch agencies. That was communicated to the Commission in a letter on March 15, 1988. But, there has not yet been a final evaluation or statement by the Administration on those recommendations, sir.

Mr. **Pickett**. Well, it seems like we're at the point where everybody recognizes the problem, but no one is willing to take any action to deal with it. It seems to me that the case has clearly been made that this Nation has got to have an adequate merchant marine fleet, not only for defense purposes but to preserve our posture as a trading nation around the world.

The only way we're going to get there is to do what has to be done to achieve that. This means that money is going to have to be expended. When I hear suggestions, for example, as you've made in some of your testimony this morning, that we go outside of this Nation for new ship construction, it disturbs me a great deal. I realize that there have been virtually no new merchant vessels commissioned from the shipyards of this Nation in several years. It seems to me that's an important resource that the Administration should be concerned about. If we lose it, it's going to be very difficult, expensive, and time-consuming to reestablish it.

Is it your intention to try and see that some kind of policy objectives are worked out in these areas?

Mr. GAUGHAN. Mr. Pickett, if I could just make a couple of comments?

First of all, it is certainly my intention, and the Maritime Administration's intention, to work vigorously within the Executive Branch on the evaluation of those recommendations and to try to push that forward.

If I could, I would politely take issue with the fact that we have not moved ahead. This ODS reform package that the Administration has proposed is a significant step ahead and an effort to deal with the urgent problems of the operators. I recognize that it's not a remedy to the rest of the distressed segments of the industry. It was a hard choice, if you will, that had to be made. This is one that we made to move forward and to try to at least begin to correct this situation so that our operators can be competitive and strengthen themselves.

Unfortunately, the financial realities are such that operators need the ability to immediately acquire vessels at worldwide market rates, so that they are not handicapped with higher capital costs in dealing with their foreign competition.

Mr. PICKETT. All the reports that I've been reading recently on the issue of our merchant marine make it quite clear that it's still declining at a rapid rate. The program that you're outlining, and the one that we're talking about here with this proposed legislation, is not really going to turn around the overall program, the way I see it.

What I'm suggesting is that somebody needs to raise their sights and get a little longer-range program with a little more muscle in it if the job is going to be done.

The Administration expresses a lot of concern about using money to get the job done. But if it's not done under the merchant marine, then the Department of Defense is finding it necessary to spend more and more money for the military sealift capacity. Where are we really gaining anything if we are simply using the dollars under the guise of defense instead of using it in the merchant marine program, which would solve both the defense problem and the merchant marine problem?

Mr. GAUGHAN. Mr. Pickett, this is a good faith effort on the part of the Administration to increase support to the liner industry to spread that support to additional operators, so that they can turn the corner and strengthen themselves individually and as an industry. As that part of the commercial industry strengthens itself, the pressures on the defense will lessen over time because the increased spending in the Department of Defense is a result of the weakening condition of the commercial fleet.

The Administration's bill is an effort to expand the coverage of subsidy and to remove a whole range of operating restrictions, so that these companies could go out and act like steamship companies; that is, compete and build their capital so that they can, in fact, buy new ships. Those ships bring jobs with them, and with those jobs comes a lessening of the pressure for the continuation of the buildup of the RRF, as an example.

Mr. PICKETT. Has the Maritime Administration made—this is my last question, Mr. Chairman, I don't want to go over—made projections on what the impact of the legislation under consideration would be on the liner companies as far as what the changes in capital position might be as a result of this? Specifically, have you all made projections on what demands there may be for new vessels, as a result of this legislation? If there are any?

Mr. GAUGHAN. We have certainly made projections on what this program would bring per vessel and so forth. In terms of demand for new vessels, I think I would leave that to the operators. Clearly, some of the operators would tell you, both publicly and privately, that without the reform in this legislation, the consequences are that they may not be in business, sir.

Mr. PICKETT. I take it the answer is that there's no new vessels contemplated as a result of the monies being paid out?

Mr. GAUGHAN. I don't know how to answer that, sir. This was not designed to be used to acquire vessels. But it would certainly allow operators the flexibility to go out and replace some of their older tonnage. If they needed new capacity, they could go out and get it at world prices, which, hopefully, would allow them to compete in the global market.

Mr. PICKETT. Thank you, Mr. Chairman.

Mr. GAUGHAN. I think it is fair to say, sir, that if the legislation were enacted, new ships would be built. I don't have a number for you, but certainly the operators involved could tell you that.

Mr. JONES. Mr. Saxton.

Mr. SAXTON. Thank you, Mr. Chairman.

Mr. Gaughan, on page seven of your testimony under program costs, you indicate that the proposal would involve a modest cost increase, to quote you, from $300 million to $500 million over the current contract liabilities in the next 10 years. Is that an increase of $300 million to $500 million in the ten-year period?

Mr. GAUGHAN. That is correct, sir.

Mr. SAXTON. What would cause that increase?

Mr. GAUGHAN. The cause of that increase would be the expanded number of ships that would be covered. We are trying to get that expansion by having reduced costs on the individual vessels. My recollection is that the budget presently before the Congress calls for about a $26 million net increase for this year for the expansion of the ODS program.

Mr. SAXTON. And on the next page, you indicate that the program costs will be $100 million over the first five years. I expect that's because you would expect the ships to come on line sometime subsequent to the early stages of the decade?

Mr. GAUGHAN. That's correct.

Mr. Saxton, we could provide for the Committee our spreadsheets, if you will, on how we see those costs going.

[The material referred to may be found on pp. 302-307.]

Mr. SAXTON. If one were to accept the premise that by spreading the subsidy over a wider base it would somehow help us to be more competitive, I could better understand your program.

My assumption is that we're having a very difficult time competing with the present subsidy program. Doesn't your proposal reduce subsidies to spread them over a wider base? How does that help them to be competitive?

Mr. GAUGHAN. I think I could best answer it this way, sir. Coupled with the cost efficiencies themselves—reducing the subsidy cost per vessel and making more funds available—is as important as the operating flexibilities that would come from amendments to the existing law.

Mr. SAXTON. Excuse me. Does that mean that you're admitting that, by reducing subsidy, there is no real advantage there for our shipowners? You're saying that we're really going to take money away from each individual shipowner and make it more difficult to compete.

Mr. GAUGHAN. Oh, I don't think so at all, sir.

I think you could say that if we were not asking for removal of section 605(c) restrictions. Any time an operator wants to change its area of operation or its type of operation, it has to file an application, which is then subject to challenge by all other U.S. operators.

It should be recognized that, under the present system, the daily operating costs of subsidized vessels are generally higher than the costs of unsubsidized vessels, including those under contract to the Government. So there are cost efficiencies that unsubsidized operators have achieved that could be imposed on the subsidy system to allow greater coverage.

This also eliminates a whole range of administrative regulations that keep these operators from being really competitive.

Additionally, it was our effort and our intent with this legislation to place all operators at the starting gate together, including the currently subsidized and the currently unsubsidized operators, so that they all were looking out at their foreign competition rather than competing with each other, to their own detriment.

Mr. SAXTON. The proposition of reducing subsidies for an operator, enlarging the program by bringing more ships into it—this makes sense with respect to the entire broad spectrum of operation. But I think you're going to have a pretty tough time convincing me that, by providing more flexibility and less subsidy per operator, we are making our shipping operation more competitive.

I have a hard time understanding that.

Mr. GAUGHAN. Sir, if I have to operate a 25-year-old steam-powered vessel under the present system, and I'm not able to go out and buy a new, technologically efficient, diesel-powered vessel, then I'm not going to be in the business very long.

There are three elements of cost that put a U.S. operator at a disadvantage. These are capital cost, fuel cost, and wages. First, you put capital costs on a par with the competition through new acquisitions. Those vessels will have fuel-efficient engines, and you've eliminated the fuel differential, or close to it. The remaining differential is in manning and wages.

If I'm operating an older vessel and I have a crew of 30, and my competitors are operating with a crew of 21, then I'm at a significant disadvantage. Allow an operator to get to the crew sizes of its foreign competitors, and then offsetting the cost differential between the two puts you in the ball game. I'm afraid I can't agree with your premise.

Mrs. BENTLEY. Would the Gentleman yield?

Who is operating a 25-year-old steam turbine vessel now?

Mr. GAUGHAN. Lykes Lines has some that are probably close to that, Mrs. Bentley.

I use that just as an example, but there are certainly older generations of vessels out there with crew sizes higher than 21.

Mrs. BENTLEY. Well, are you suggesting then for these that are going to—if they are still operating at 20 to 25 years old, and we know they're going to be replaced real soon—are you suggesting that we change the whole subsidy program, change the whole system just for these?

Most of the operators do have more modern ships today.

Mr. GAUGHAN. I believe that, under the existing subsidy system we have not had. Incentives for operators to bargain as hard as possible with labor were not there, because the Government was paying for increases. What we are simply asking for is some discipline in that process, so the American taxpayer is not paying for more than they should have to pay.

Mrs. BENTLEY. When you say that——

Mr. GAUGHAN. I have some figures——

Mrs. BENTLEY. Excuse me a minute.

Mr. GAUGHAN. Yes, ma'am.

Mrs. BENTLEY. When you say they didn't bargain hard enough, whom are you talking to? Who are they bargaining with? On the freight rates, or what?

Mr. GAUGHAN. No, I would be talking about management with labor on subsidized operations.

We have some numbers that I will gladly provide to the Committee. These numbers show that, on comparable vessels, the daily cost for a subsidized operator is in the neighborhood of $9,000 a day. An unsubsidized operator's costs is in the neighborhood of $7,600 a day. Indeed, some contracts with the military, which I recognize are not necessarily the same, are in the neighborhood of $6,500 a day. There is a range out there to show what the costs are from various types of operators.

Mrs. BENTLEY. Are they the same type ship?

Mr. GAUGHAN. Yes, ma'am. I can provide those figures for you, so that they can be analyzed. But that's certainly the way I looked at it.

[The information requested can be found as an enclosure to a letter from the Maritime Administration, dated 4 May 1988, entitled "Comparative Daily Wage Costs for Similar-Sized Vessels", located at the end of the hearing on p. 278.

Mr. SAXTON. Just one additional comment, Mr. Chairman. I pursued that line of questioning to determine as well as I could the areas where you are proposing to spend additional money. The rest of the program, I take it, would be at no cost to the taxpayer. There would be a cost to the shipbuilding industry, the domestic shipbuilding industry, if we went into some type of a worldwide procurement program. That's perhaps cost number two, which I partially referred to or alluded to in my opening statement.

Is there any other cost to anybody in this program, in terms of labor costs, or——

Mr. GAUGHAN. I don't see additional costs there. We are looking at wages, which is the biggest element of ODS. You say there's a cost to the domestic shipbuilding industry. I recognize their difficulty, sir. But another way of looking at it is that there is no commercial operator in the foreign trade who can afford to build a ship in the United States with his own capital, because of the higher costs that he then has to recoup through his freight rates.

That is a sad fact of life, but it is true, sir.

Mr. SAXTON. Mr. Chairman, thank you very much.

Mr. JONES. Mr. Coble?

Mr. COBLE. No questions.

Mr. JONES. Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman.

Mr. Chairman, I ask permission for unanimous consent to include a statement at the opening.

Mr. JONES. Your prepared statement will appear in the record.

Mrs. BENTLEY. Pursuing the line of questioning that Mr. Saxton has started, I would like a complete breakdown now of the ships that are active under the American flag, including their age, steam power, diesel power, manning, etc.

Mr. GAUGHAN. Yes, ma'am.

[The information follows:]

SUMMARY OF PRIVATELY-OWNED OCEANGOING SHIPS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988

430 total ships—20,925,525 total deadweight tons; 4,175 total licensed billets; 8,782 total unlicensed billets; 12,957 total billets.

[EDITOR'S NOTE.—A breakdown of the above statistics can be found at the end of the hearing.]

Mrs. BENTLEY. I think we need to look at that.

I do have a real problem with any suggestion that if we allow foreign building—I underscore if we allow, and I'll get to that in a minute—that we also lift the three-year ban in allowing these ships to participate in the carriage of Public Law 480 and cargo preference cargo.

Are you advocating that?

Mr. GAUGHAN. Yes, I am.

Mrs. BENTLEY. Why? Why are you doing this to undercut those who have built in this country?

Mr. **Gaughan**. First of all, I think that, if vessels that were constructed abroad are allowed to immediately carry preference cargoes, you would see the acquisition of new tonnage for the U.S. flag.

It is a tremendous disincentive for an operator if the only place he can build a competitively priced ship is overseas, and he then has no place to employ that ship for three years until he can get into the preference trade. With elimination of the waiting period, I think you would see additional tonnage which would bring additional jobs, and a lower cost to the cargo preference program. The day-to-day issues that we deal with over the higher costs of U.S.-flag transportation also would start to go away, ma'am.

Mrs. **Bentley**. But what about those shipowners who have built in this country and are faced with this competition? We have some of those ships still left.

Mr. **Gaughan**. I'm not sure that I have an answer for you, ma'am.

Mrs. **Bentley**. Think of an answer and send it up to us, will you please?

Mr. **Gaughan**. Yes, ma'am.

[The material referred to follows:]

ELIGIBILITY TO CARRY PREFERENCE CARGO

Many of the vessels already eligible to carry preference cargo were built in foreign shipyards. Most of the U.S.-built ships presently engaged in carrying preference cargo were built with construction-differential subsidy (CDS) after the mid-1960's. CDS put the operators of these U.S.-built ships at capital investment parity with operators of foreign-built vessels. Furthermore, much of the original privately financed investment in these U.S.-built ships has been depreciated. Considering world inflation over the past 20 years, the U.S.-built vessels involve a significantly lower cash outflow for capital expense than would new foreign-built ships. Consequently, we do not see that granting immediate eligibility for carriage of preference cargo to new or relatively new reflagged foreign-built ships necessarily would be disadvantageous to current operators of U.S.-built ships.

Without immediate eligibility for the carriage of preference cargoes, U.S. operators would tend to operate older, less efficient vessels for a longer period of time, a practice which would be detrimental to the strengthening of U.S. shipping companies. On the other hand, providing immediate eligibility for the carriage of preference cargoes would allow direct replacement of older, less efficient tonnage with modern, competitive vessels. This would be most advantageous in revitalizing U.S. shipping service.

Mrs. **Bentley**. You know, we keep talking about letting us build abroad. Just this past week, I had a call of desperation from my shipyard—Bethlehem Sparrows Point. This is building a couple of Navy vessels. They cannot get machinists in this country. Now, we know that the Navy has gone to Japan and brought shipriggers and boilermakers into Long Beach, and we know that the Navy also went to Subic Bay and brought in electricians to the Philadelphia Navy Yard. Here we are in peacetime without any pressure, and we haven't got these skills because we've allowed our shipyards to go down.

Isn't there any worry or any consideration? Doesn't anybody take into account that we need to keep these skills up? It is going to cost the Government some money, but we're going to have to do it.

Mr. **Gaughan**. Mrs. Bentley, I would have to answer that by saying yes, I think there are some people who think about it and worry about it. There are probably a few of us in this room.

You know very well that I sit as a member of that Commission on Merchant Marine and Defense. I thought we did a rather admirable job of trying to articulate some of those concerns so that the decisionmakers in this country, whether they be in the Congress or in the Executive Branch, would recognize the situation and try to come to grips with it.

Mrs. **Bentley**. True, in there. But now you're advocating something different, if I understand what you've said this morning. You're really pushing for building abroad.

Mr. **Gaughan**. I am pushing for no restriction on where you could get those ships. If that becomes a build-foreign provision because it can't be done economically here, then that is the situation; but I am not necessarily pushing for built foreign. But I am vitally and genuinely concerned about U.S. ocean operators not being able to stay competitive if they are not able to upgrade and modernize their fleet.

I am looking at the harsh realities that are there and trying to come up with a reasonable approach, recognizing that if we don't do something, the operators are not going to be around either. Then, I have to sit in front of you and explain why there are no longer shipgoing jobs, Mrs. Bentley. It's a tough call.

Mrs. **Bentley**. Does the Maritime Administration budget come under the so-called Group 400?

Mr. **Gaughan**. Yes, ma'am.

Mrs. **Bentley**. I think that's one of the problems. For a long time, we fought to keep the Maritime Administration out of DOT. In fact, we'd succeeded. We were successful from 1966 until 1981. Unfortunately, in this Administration, it was moved over there, and, ever since then, it's been downhill.

That's also happened with the Coast Guard. I think maybe we need to look at sending it back to the Department of Commerce where it was looked upon with great respect, and didn't have to compete with these other forms of transportation.

They consider Amtrak the same as the merchant marine, or mass transit the same as the merchant marine or the Coast Guard.

Mr. **Gaughan**. Mrs. Bentley——

Mrs. **Bentley**. I'll submit some additional questions, Mr. Chairman.

Mr. **Jones**. Thank you, Mrs. Bentley.

John, and gentlemen, we want to thank you very much for your appearance here this morning. Some requests have been made for you to furnish certain information to certain Members. Again, thank you very much.

Mr. **Gaughan**. Thank you, Mr. Chairman.

Mr. **Jones**. At this time, I'd ask unanimous consent that the statement of the Hon. Mario Biaggi be included.

Without objection. So ordered.

[The prepared statement of Mr. Biaggi follows:]

STATEMENT BY HON. MARIO BIAGGI, A U.S. REPRESENTATIVE FROM NEW YORK, AND VICE CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES

I really don't know what I can say regarding ODS reform. It's all been said before. Clearly, our fleet is in desperate need of help. The subsidized segment of the fleet needs ships at reasonable prices. The unsubsidized segment of the industry recognized early in the 1980's that long-term survival was impossible without Government assistance. Finally, we come to our shipyards. The shipbuilding industry is essential to national defense. It cannot survive competition from shipyards in third world countries, which pay low wages.

At our last hearing on this subject, I urged operators to unite behind a single legislative approach. Yet, clearly, a united merchant marine—in and of itself—will not be sufficient.

The witnesses appearing before us today are crucial to the success of this endeavor. To the shipyards, I can say: Congress had heard your complaints. It was obviously a mistake to attempt to rebuild our merchant fleet while expecting the Department of Defense to take care of the shipyards. Any bill that emerges will have to provide for an adequate amount of commercial ship construction to protect our shipbuilding base.

To the Executive Branch, I urge a thorough reexamination of the needs of the maritime industry—in light of the conclusions of the President's Commission on Merchant Marine and Defense. What the Commission did not say was that the maritime industry has fallen victim to the Federal budget deficit; yet, that is exactly what has occurred. Congress and the President, citing costs, have abandoned the commercial shipbuilding program. The Maritime Administration, citing costs, has refused to grant subsidy to currently unsubsidized operators. The Department of Defense, citing costs, has engaged in an unprecedented series of attacks on the cargo preference laws.

I cannot agree with this approach; it is penny wise and pound foolish. In a national emergency, we will need ships and shipyards. If we don't pay the bill now for those assets, we will have to pay the bill when we need the ships—at a much greater cost than we can afford. The maritime support programs are a low-cost insurance policy. They ought to be strengthened, not diminished.

I am confident this Committee will favorably report a subsidy bill. It will cost more than the current program. However, it will also assure that we have an adequate merchant fleet and a suitable shipbuilding base. This Administration has not hesitated to request billions for defense. It must now assess the national importance of the maritime and shipbuilding industries, and put its support behind those programs that enable these essential defense-related industries to survive.

Mr. JONES. The next witness is Admiral Piotti of the United States Navy's Military Sealift Command.

Admiral, come around, sir. It's nice seeing you again.

Admiral PIOTTI. Nice to see you, Mr. Chairman.

Mr. JONES. You may proceed.

STATEMENT OF VICE ADM. WALTER T. PIOTTI, JR., U.S. NAVY, COMMANDER, MILITARY SEALIFT COMMAND

Admiral PIOTTI. Mr. Chairman, I appreciate this opportunity to appear once again before the Subcommittee on matters of importance to the U.S. maritime industry.

Any legislation that affects the U.S. maritime industry is of importance to the U.S. Navy and, particularly, to the Military Sealift Command. The Navy's interests in these matters are quite naturally focused on the impact these matters may have on the Defense Department's ability to execute the national strategy. The matter of operating-differential subsidy reform now before this Subcommittee is not of and by itself of concern to the Department of Defense or to the Navy except as it may impact on the Nation's—and, hence, the Defense Department's—sealift responsibility under the national strategy.

Our Nation's maritime health is rightfully of primary interest to the Members of this Subcommittee as well as to those of us at the Department of Defense and the Department of Transportation who are directly tasked with the responsibility of providing sealift during both peace and war. The Military Sealift Command of the Department of Defense is the single manager operating agency for ocean transportation or sealift, and is dependent on the necessary U.S. maritime industry assets: ships, people, and industrial facilities are readily available at all times, in order to successfully carry out its mission.

I was privileged to appear before this Subcommittee last week (23 March 1988) during hearings on the fiscal year 1989 maritime programs. In that session, I detailed the importance of strategic sealift, and how MSC fulfills its mission.

To recap, strategic sealift is necessary for the deployment and sustainability of military forces, whenever and wherever needed, as rapidly and as long as operational requirements dictate. There is no compromising this requirement without compromising the national defense.

Currently, the majority of DOD cargo tonnage is booked on regularly scheduled commercial liner service under MSC's liner agreements for all the major world trade routes. In addition, MSC charters 68 commercial ships with civilian crews to meet DOD's logistic requirements.

The U.S. merchant marine is in an accelerated state of decline. Over 95 percent of the cargo and POL needed to support our forces overseas in any contingency is programmed to be carried by commercial merchant shipping. There is no other practical way to accomplish this carriage of cargo. Thus, the Nation's capability to respond in a contingency is degraded by the declining condition of our maritime industry's ships, people, and industrial base.

The purpose of the operating-differential subsidy reform under consideration by the Subcommittee is the expansion of operating flexibility and concomitant revitalization of the U.S.-flag merchant fleet.

I have reviewed all of the ODS bills under consideration, paying particular attention to the various positions concerning national defense. I was pleased to note that all included provisions that promised to make the American-flag vessels more militarily useful, more immediately available in emergency for the carriage of Government-impelled cargoes, and available in greater numbers.

However, I believe the Administration's ODS reform proposal is a preferable approach to assisting the U.S.-flag operators in becoming more competitive while appropriately recognizing current budget restraints.

All of us look forward to a resurgence of the U.S. maritime industry, and its return to the position of preeminence it once enjoyed. It is anticipated that the proposed operating-differential subsidy legislative packages before you, or some further modification thereof, will achieve that end.

I respectfully leave detailed commentary on the proposal to the Department of Transportation. Commentary which Mr. Gaughan has already provided you.

At this time, Mr. Chairman, I would be glad to answer any questions that you or other Members of the Subcommittee may have.

Mr. JONES. Thank you, Admiral, very much.

With the completion of the Navy's expansion program, coupled with the lack of commercial construction, don't you have a reason to be concerned about the shipyard base?

Admiral PIOTTI. The Navy will continue to build replacement ships for those combatants and other ships lying within the context of the 600-ship Navy. That will take care of those few yards which are concerned with the building of combatant-type ships.

I am concerned however, about the shrinking of the industrial base to build commercial ships. It's within that base that the sealift capability resides: the ability to build ships necessary for the lift of 95 percent or greater of the POL and dry cargo, as well as the activation of the ships that are now in the RRF.

Mr. JONES. You've expressed your concern about the privately-owned merchant marine. What is DOD willing to do to ensure its survival?

Admiral PIOTTI. As you know, Mr. Chairman, in response to a recommendation contained in the fiscal year 1988 Continuing Resolution, we have been looking at build-and-charter programs, quite different from the procure-and-charter programs that are recommended by the Commission on Merchant Marine and Defense. The build-and-charter program is a mechanism wherein we would cause certain ships to be built which would then be chartered by the Government for the carriage of sealift. This is similar to the 68 vessels we now employ under long term or other means of charter. Included in this Congressional proposal was the dropping of current restrictions on entering into long-term charters introduced subsequent to the Maritime Prepositioning Ship (MPS) Program. This restriction limited our charter capability to three 18-month periods, or a total of 54 months, which does not allow an owner to recoup his capital costs, since the only thing he's guaranteed is a single 18-month charter.

The first ships envisioned under such a program are tankers. Right now, we are gathering together the requirements to go forward with such a program. We hope to have an RFP out on the street later this year.

Mr. JONES. How do you measure shipyard capacity? What capacity does DOD feel we need for a full mobilization?

Admiral PIOTTI. The shipyard capacity we need, Mr. Chairman, is the capability to build the numbers and types of combatants that we now operate within our Navy, or those which we will operate as replacements for the existing fleet, together with the shipyard capacity to build the types of vessels that the commercial industry needs as well as any additional ships needed for the carriage of military sealift.

Where those requirements are compatible, then we need an expanded capability within that area.

Mr. JONES. Currently, there are no commercial vessels being built in our large shipyards. Does DOD feel that it can support U.S. shipyards on a mobilization basis with just Navy construction and repair work?

Admiral PIOTTI. The short answer is no. We can support the shipyard base to build combatants, but we cannot support the shipyard base to build the ships that we require for sealift or that commercial industry needs.

Mr. JONES. The question is, how does the build-foreign proposal coincide with the facts and your concerns?

Admiral PIOTTI. Right now, as you're aware, we have a sealift shortfall. We're faced with a dichotomy of building the numbers of available ships and of supporting the numbers of shipyards that remain economically viable.

So it's a trade off between ship numbers and retaining shipyard capacity or shipyard capability.

If we expand the U.S. commercial fleet with U.S.-built ships, they'll be noncompetitive, and we'll see a further shrinking. So we're faced with that dichotomy, Mr. Chairman. Right now, from a military standpoint, I look at the shortfall in ships as the critical, number one priority.

Mr. JONES. The MAST program provides that the Department of Defense will determine the necessary fleet size, and then the Nation will provide subsidy to enough vessels to meet that need, thus linking the subsidy to recognized defense needs.

Does that seem like a logical approach, or a valid approach?

Admiral PIOTTI. Yes, it does. I think that we should determine what our national needs are, those of defense as well as the economic or private sector. We should agree to provide those subsidies necessary to the survival of these two bases. I don't think that beyond that the MAST bill should curtail further building. I think the needs of the Nation should be those numbers which are subsidized, plus that number which accounts for probable attrition and malpositioning of the ships used for national defense.

Mr. JONES. Finally, on behalf of Congressman Anderson, Admiral, I ask this question: your testimony is filled with statements on the importance of the ODS program to the revitalization of the merchant marine. How important is this program to the revitalization of our shipbuilding and ship repair industry? I assume that the Navy is just as concerned with the declining shipbuilding base as it is with the declining number of ships.

Admiral PIOTTI. As I've stated, the shipbuilding base is vital to the Navy and to the Nation, relative to its sealift being adequate to carry out the mission of supporting our troops overseas. There's just no other practical method of logistic support—you can't fly the volumes of military equipment, critical materials, and the wherewithal to support the appetite of the American public by air. Sea is the only practical way to do it. Therefore, a shipbuilding base outside of the military base is vital to our lifestyle, the treaties we are partner to, and our overall national security. It will remain so for the foreseeable future.

Mr. JONES. Mr. Anderson would also like to know your feelings on the procure-and-charter program. Would the Navy support a linkage between the adoption of procure-and-charter and the adoption of ODS reform?

Admiral PIOTTI. As I stated, there are two separate programs. The one the Navy is looking at is the build-and-charter program, which was recommended last year in Senate language. In this program, we would ensure that adequate financing is available. Once these ships were built, we would charter them on a long-term basis, similar to the method used for the T-5 tankers and MPS ships; over the 20-year period of the useful life of the ship. This guarantees shipyard work as well as work for commercial operators.

We have looked at this program and, as I said, our first forecast need will be in the area of tankers. Procure-and-charter is a part of the recommendations of the Commission on Merchant Marine and Defense and is now being looked at by the Assistant Secretary of Defense for Production and Logistics, Mr. Costello. He will determine what recommendations DOD will want to make to the National Security Council, which is coordinating the Administration's intentions relative to the recommendations contained in that report.

Mr. JONES. Thank you, Admiral.

Mr. Lent?

Mr. LENT. Thank you, Mr. Chairman.

Admiral Piotti, you recall that, when the Administration submitted to Congress the treaty negotiated with Iceland concerning shipment of military cargo, there were a lot of concerns that it was simply a guise to get around complying with the 1904 Military Cargo Preference Act. This Committee, at that time, was assured by representatives of your agency and the State Department that the Government would assure the presence of a U.S.-flag carrier in the Iceland trade.

Could you explain to the Committee the significance of the recent MSC notice, which says that MSC intends to "utilize commercial tariffs" in the Iceland trade?

Admiral PIOTTI. As you may or may not be aware, Mr. Lent, the current U.S. carrier has appealed to Members of Congress to delay the issuance of an RFP leading to a new contract, which would commence May 1. In resolving the issue with Congress, we have been delayed until last Friday in issuance of the RFP. Therefore, the period before we can enter into contract again may go beyond the present contract. For that period, during which we may not be able to operate under contract, we have indicated we would revert to filed tariffs, a course of action similar to that conducted last year when we were trying to get under contract with the present carrier. We used the tariffs filed in February of 1986 to reimbuse him during that period.

Now, as regards the other provisions of the treaty, and the 35 percent and the 65 percent awarded respectively to the U.S. carrier and the Icelandic carrier—those percentages during this period under which we would be operating under tariff, if that becomes necessary—would be maintained. Therefore, the intent of the treaty would be maintained.

Mr. LENT. That notice would also continue to guarantee each side at least 35 percent for U.S. and 65 percent for Icelandic carriers?

Admiral PIOTTI. That is our intent, yes, sir.

Mr. LENT. Admiral, I understand that there is some ongoing discussion between MSC, OMB, and some of the maritime unions pursuant to the OMB Circular A76 privitization process, dealing with the manning of MSC vessels.

Could you give us your views on this issue, and tell us if you have a timetable for converting from Civil Service crews to non-Government crews?

Admiral PIOTTI. Well, if I might, a little history.

When OMB Circular A76 came out, the Navy indicated that it would offer into the A76 program within the MSC purview five programs: the oceanographic ships, the range instrumentation ships, the hospital ships, the tugs, and the cable ships. As the process has played out, the first A76 bid process was for the oceanographic ships. They were awarded to a commercial concern, who submitted a lower bid than the Government.

The three subsequent competitions between the Government and commercial offerors for the range ships, the hospital ships, and the cable ships were won by the Government as being the low offer.

The issues to which you speak arise out of a claim by various parties that there wasn't a level playing field, and that bids were cast with different manning levels, different rates, that sort of thing. These claims or issues have been looked at, and are currently being looked at by both the General Accounting Office and by the Department of Defense I.G.'s office. I don't know what the outcome will be. But as in each case with an A76, after the bids are opened, a tentative award is made, and then there is an appeal period. An adjudicative body takes a look at them to make sure that both parties—the Government and the other offerors—submitted bids that were aboveboard.

In all cases, the offers of the winning bidders have been upheld, even though there has been cases of upward adjustments in the price of the low offeror.

Mr. LENT. Okay.

Mr. Chairman, I think my time is up.

Mr. JONES. We'll recognize you for one more question.

Mr. LENT. Okay. Thanks.

Admiral, could you describe for the Committee what changes you intend to make in your procurement procedures to comply with the recent Department of Justice memorandum concerning implementation of the 1904 Military Cargo Preference Act?

Admiral PIOTTI. At present, the Assistant Secretary of Defense for Production and Logistics is issuing an instruction which will require all within the Department of Defense to conform with the Department of Justice memorandum. That cargo will then be offered to MSC for booking. We intend, where a U.S. flag is available, to book it in U.S.-flagships.

[EDITOR'S NOTE.—The 4 April 1988 memorandum of the Deputy Assistant Secretary of Defense for Procurement can be found at the end of the hearing. Also, reference is made to Printed Hearing No. 100-35, Government Agency Compliance with Cargo Preference Laws.]

Mr. LENT. Thank you very much, Admiral.

Mr. JONES. Mr. Hughes.

Mr. HUGHES. No questions, thank you.

Mr. JONES. Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman.

Admiral, have you seen—I'm piggybacking on what Mr. Lent just asked you about—the Department of Justice memorandum on the

Cargo Preference of 1904. Have you seen an outline of what the Department of Defense is going to send out to all its departments?

Admiral PIOTTI. No, I have not. I know in general what the content is, having talked with Bob Moore over in the Department of Defense yesterday. But I have not seen the draft yet.

Mrs. BENTLEY. And are they making it clear in there that all components—everything that is purchased by or on behalf of the Department of Defense—falls under this category? They're all included.

Admiral PIOTTI. I really can't answer your question. There's concern that if we go to a manufacturer—say it's Hughes Aircraft, or some other aircraft company—then that company—in buying, say stock rivets for both Government and commercial applications—is now required to insure that those rivets, as components of a Government purchase, are shipped by a U.S.-flag carrier? How low in the totem pole of piece parts do we get? Component parts, or is this every part that goes into every item manufactured?

That's the hard part of the equation. That's the one DOD is wrestling with.

Mrs. BENTLEY. I'll be very, very interested, and I'm sure this Committee will as well, in looking very carefully at the definition that's given by whomever is doing it at the Department of Defense to this DOJ directive.

To us, it's very clear; namely, that anything purchased by or on behalf of shall move on American flag ships. So we want to watch that very carefully. And I'm sure that you will look at it in the same light. You have indicated that you are concerned, also, about the status of the maritime fleet, and that should be of particular importance to you, as head of MSC.

Let me ask you a couple of questions. What lines do you have contracts with right now? Marine Transport? Who are you chartering ships from right now?

[The information referred to may be found on pp. 310 and 311.]

Admiral PIOTTI. We have charters with a lot of lines, but there are also an awful lot of organizations we have charters with. The MPS ships are owned by some of the biggest financial institutions in the country, as well as some of the biggest corporations.

Mrs. BENTLEY. All which ships? MPS?

Admiral PIOTTI. The MPS ships. We charter a total of 68 ships from various companies. I can provide a list for the record.

Mrs. BENTLEY. Would you provide that for us, please?

Admiral PIOTTI. Yes, I will.

Mrs. BENTLEY. I'd like to have that for the record.

[The information referred to may be found on p. 312.]

Mrs. BENTLEY. As I was sitting here trying to figure out which steamship lines are still left in the subsidized and unsubsidized category, I find my list is very, very short. I think that maybe I'm missing something. I'd like to have the complete list of whom you've had bids from recently as well. Some of those unsuccessful bidders.

Admiral PIOTTI. Well, virtually every liner company in the United States.

Mrs. BENTLEY. Okay. I count eight liner companies.

Admiral PIOTTI. There are more than that.

Mrs. **Bentley**. Liner companies?

Admiral **Piotti**. Yes. If you count American Heavy Lift, Totem, and others.

Mrs. **Bentley**. Yes.

Okay.

[The material referred to may be found on pp. 313 and 314.]

Mrs. **Bentley**. Going back to our cargo preference—the DOJ decision. Will that decision affect all contents that are now outstanding—in other words, contracts that have been put out? Will the Ship America apply to that?

Admiral **Piotti**. The Ship American provision, and the Buy American provision, should be in all contracts. If it isn't, this instruction should cause some negotiated changes to those contracts.

Mrs. **Bentley**. Now, on build-and-charter, is there anything in the works right now to do any building and chartering?

Admiral **Piotti**. As I indicated, we are trying to generate a set of requirements to go forward with an RFP within six months. Yes, there is something in the works.

Mrs. **Bentley**. For tankers?

Admiral **Piotti**. For tankers.

Mrs. **Bentley**. When there was a plan a year or so ago, it sort of fizzled out. Do you think this one is a little bit more concrete than that one?

Admiral **Piotti**. This is a little more comprehensive. The other recommendation that we looked at was replacement of the sealift tankers. Because that was deemed to be the Navy's first need, as under the Port and Tanker Safety Act, we would be forced to reduce the cargo-carrying capacity in 1989. However, even with the reduction, our demands for carriage had been reduced, so these ships were still by at least half more economical than building new ships. Thus, it was considered prudent to continue them through their useful end of life, the mid-1990's. At this time we are looking at other possibilities for tankers, wherein replacements might have point-to-point carriage features as well as underway replenishment features.

Mrs. **Bentley**. Going back once again to the cargo preference: there is an outstanding order right now involving some 23 cranes coming from Korea for the Navy. There have been a lot of games played already on how they're going to be shipped. Has there been any determination yet exactly how those are going to be shipped?

Admiral **Piotti**. I'm not aware of any cranes being presented to us for shipping. Let me check into that and provide an answer for the record. I'm not aware of the case in particular.

Mrs. **Bentley**. Do you get involved in all shipping for the Navy?

Admiral **Piotti**. I do if it's presented to us. The booking agent is the Military Traffic Management Command. If it's offered to them, and then booked with us. If it isn't presented to us for carriage, then I'm not aware of it.

Mrs. **Bentley**. I would like you to look into that. This has been kicked around now for some five or six months. They were going to charter them with a Dutch outfit until we raised some objections. I understand now that we're trying to go around through the back door on this, to try to offset the fact by assembling them here in the United States, that would take care of the Buy American provision. That's a lot of nonsense.

I could use stronger language than that, too, but I won't.

[The material referred to follows:]

SHIPPING OF CRANES FROM KOREA

To date, no crane components or subcomponents have moved or been booked for ocean carriage. The earliest projected movement date is June 1988. Both the prime contractor and the subcontractors have been made aware of the Department of Justice directive and the Navy's intention to comply with the law. Accordingly, both contractors have been directed to ship all components and subcomponents on U.S.-flag ships.

Mrs. BENTLEY. Okay. I think that's all I have right now, Mr. Chairman. Thank you.

Mr. JONES. Thank you, Mrs. Bentley. Admiral, thank you very much for your appearance here today, as well as your support for a strong merchant marine.

Admiral PIOTTI. Thank you, Mr. Chairman.

Mr. JONES. Our next witness is Mr. James E. Orlando, the Director of the Office of Transportation and International Services, Mail Processing Department, U.S. Postal Service.

Mr. Orlando, you are recognized. You may proceed.

Mr. ORLANDO. Thank you, Mr. Chairman.

STATEMENT OF JAMES E. ORLANDO, DIRECTOR, OFFICE OF TRANSPORTATION AND INTERNATIONAL SERVICES, MAIL PROCESSING DEPARTMENT, U.S. POSTAL SERVICE, ACCOMPANIED BY JAMES D. YOUNG, SENIOR TRANSPORTATION SPECIALIST

Mr. ORLANDO. Good morning.

With me this morning is Mr. James D. Young, of my office, who is intimately involved in the procurement of ocean transportation for U.S. mail.

My testimony this morning concerns the mail cargo preference provisions in section 2 of H.R. 1088.

The Postal Service was established by Congress to provide the best mail service it can at fair and reasonable rates. Cargo preference amendments like those in section 2 of H.R. 1088 would, we believe, tilt the rules for transporting mail to the disadvantage of the mailing public.

The amendments permit linking the rates charged the Postal Service to those for "comparable cargo" for private persons. This could result in higher costs to the mailing public. In practice, there is no adequate, competitively determined comparison available.

In the Second Session of the 99th Congress, the Senate committee report to accompany S. 186 (S. Report 99-321), a bill similar to section 2 of H.R. 1088, suggested that the generic Freight All Kinds or F.A.K. classification in carrier tariffs could be an appropriate kind of comparison for the purpose of this provision.

This is a high catch-all rate. Based on a sampling of tariffs published by several U.S.-flag carriers, the average cost of transporting mail in 40-foot containers at the F.A.K. rate could be about two and a half times the current competitive mail contract rate, while the average cost of transporting mail in 20-foot containers could be nearly triple the current contract rates.

Even under the analysis followed in the Senate, then, the annual cost of the bill to the mailing public could be as high as $24 million to $32 million.

Attached to my prepared statement is a paper comparing the lowest American-flag offers we received during 1987 for ocean transport services against the actual contract award. This shows the percentage of difference in cost between the award and what the Postal Service might have had to pay if this legislation were on the statute books. The range is from 55.5 percent to 487.39 percent above the present contract rate.

However, this comparison is conservative, because the American-flag carriers would presumably increase their prices once free of any foreign-flag competition.

International surface mailers have already incurred large increases in postage costs due to a rising burden of terminal dues assigned to the United States and other net exporters of mail by the international postal community. They are shortly facing additional increases ranging from a low of roughly 20 percent up to 68 percent, which go into effect April 3, 1988.

Running against a tide of unprecedented growth in all U.S. mail volumes, international surface mail volumes have declined six years in a row. The proposed amendments would increase the expense of this U.S. Government mail service to those who so far have stayed with us, despite rising costs.

These amendments have been advocated on the grounds that they restore Buy American principles that apply to mail contracting before postal reorganization. That is not what the amendments propose.

The former statutory preference required the Post Office to use American-flag carriers only "insofar as practicable". That provision permitted prices to be taken into account. These amendments do not do that. They would eliminate the competitive force of foreign bidding where American-flag service is available.

For a number of years after postal reorganization, the Postal Service on its own provided a formal preference for American-flag shipping. It found that on most routes only one or two American carriers would bid. When there were two or more, they showed little interest in price competition among themselves for the business. Usually the bids were, at the most, a few dollars apart. As a result of this administrative preference, postal ratepayers were then paying on the average about a 30-percent surcharge on ocean shipping costs where American carriers got the contract.

Once the Postal Service eliminated its formal preference to make the system more competitive, American-flag bids came down. American-flag carriers have retained a significant share of the business, with most of the rest divided among carriers from various Western European countries and other major trading partners and allies of the United States.

In 1986, we asked a number of other postal administrations whether they reserve ocean transportation of their mail for their own flag carriers. Almost all of the countries whose carriers have any of our contracts indicated that they do not.

These replies are summarized in an enclosure attached to my prepared statement.

In acquiring transportation service, the Postal Service deals with profit-oriented business people. Understandably, they will exploit whatever advantage they can to earn the most dollar for their shareholders. Unless those acting for the public in procuring goods and services are permitted and, indeed, required to obtain full value at competitive prices, the American people will bear unnecessary and wasteful cost.

The Postal Service prefers to deal with American suppliers. A stronger and more competitive merchant marine would be advantageous to the postal system. But the postal part of this legislation does nothing to promote such a system. It takes away incentives to improve and to compete. Mail revenues for the maritime industry are such a tiny portion of the shipping business that it is futile to think that the industry can be rejuvenated on the back of the postal ratepayer. These amendments are not a protection for America. The result would, in some instances, create a sole-source environment. In others, it would permit, at most, two United States carriers to bid on most routes and thereby obtain an unconscionable edge in their dealings as potential suppliers of service to the American postal system.

For the above reasons, the Postal Service strongly opposes enactment of section 2 of H.R. 1088.

This concludes my formal statement, Mr. Chairman. We will be happy to respond to any questions you may have, sir.

[The attachments to Mr. Orlando's prepared statement may be found at the end of the hearing.]

Mr. JONES. Thank you, Mr. Orlando.

If the costs of U.S. operators and foreign operators were the same, would you drop your opposition to mail cargo preference?

Mr. ORLANDO. Yes, sir. Most certainly. As long as there were no other provision that would jeopardize service and, of course, based on your statement, we would assume that the costs would be equal, so we would have no objection in doing business with U.S.-flag ships. We would, in fact, prefer to do so.

Mr. JONES. Mr. Orlando, how many tons of mail do you send annually by vessel? How many containers of mail does this convert to?

Mr. ORLANDO. It's approximately 45,000 short tons per year, sir.

Mr. JONES. All right.

What types of mail, such as letters and crates and so forth, are sent by vessel?

Mr. ORLANDO. Well, for the most part, it's printed materials, such as catalogues and magazines. Also, of course, this includes some parcel mail, and there is a very, very small quantity of letter mail which continues to move by ocean vessel.

Mr. JONES. All right, sir.

On behalf of Mr. Anderson, I would ask this question.

Mr. Orlando, in your testimony you indicate that American-flag carriers have a significant share of the postal ocean carriage business. Can you tell me exactly what that share is, and whether that share is on the decline, the upswing, or on a constant level?

Mr. ORLANDO. Let me say, sir, the share in percentage terms has been on the decline. I'll be quite candid about that. But it must be noted that the number of carriers has also declined significantly.

To be specific, in the response to your question, approximately 20 percent of the total dollars we spend for international ocean transportation are spent on U.S.-flag service. For the most part, however, that money has gone to one or perhaps two operators today when, of course, many years ago we had numerous operators.

So it is a significant share for the numbers of carriers that are currently bidding on our contracts.

Mr. JONES. Thank you.

Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman.

I believe you asked, Mr. Chairman, did you not, what share has been carried on U.S.-flag vessels?

Mr. Orlando, what constructive changes would you suggest to H.R. 1088, since you oppose it?

Mr. ORLANDO. Well, we have in the past used our own preference, as I mentioned before, Mrs. Bentley. We used a provision which said that so long as the rates bid by U.S.-flag carriers were comparable to other rates bid by other carriers for similar distances—the reason we abandoned that principle back in the early 1980's was that we found we were comparing one carrier's trade route in the Atlantic to another carrier's trade route in the Pacific. Of course the distances are dramatically different, so it wasn't really a fair comparison.

I think as Mr. Chairman has noted, if we were faced with a provision which provided for preference for U.S. flag but took price into consideration, then that would be a provision that the Postal Service could agree with.

Mrs. BENTLEY. In your attachment showing the cost comparison for U.S.-versus-foreign-flag rates, was the contract actually awarded to the foreign-flag carrier?

Mr. ORLANDO. Yes, Mrs. Bentley, it was.

I might note that, as you go down that list, all of the carriers that you see—the lowest American-flag offer mentioned with exception of two instances was the only American-flag offer submitted. So our contention is that without the pressure of competition from the foreign flags, those rates that you see in that attachment would be the rates that the Postal Service would actually have had to compensate the U.S. flags at. And that goes up as much as 487 percent increase in our costs.

Mrs. BENTLEY. Who are the biggest customers of the U.S. Postal Service? American citizens or foreign citizens?

Mr. ORLANDO. Oh, by far, American citizens.

Mrs. BENTLEY. How does your salary compare to the salary of a postal worker of the same level, let's say in England, or Germany, or in the Philippines?

Mr. ORLANDO. In some cases, I think the foreign salary would be higher, but I think that by and large our salaries are somewhat higher.

Mrs. BENTLEY. Where would it be higher?

Mr. ORLANDO. Perhaps in Canada.

Mrs. **Bentley**. I didn't ask Canada. I'm talking about where there's oceans.

Mr. **Orlando**. Perhaps in Great Britain.

Mrs. **Bentley**. They would be higher?

Mr. **Orlando**. Yes.

Mrs. **Bentley**. Since when?

Mr. **Orlando**. I'm using and comparing my particular position.

Mrs. **Bentley**. I'd like to get an actual comparison of that. I'd like to have the figures for the person in Great Britain compared to your position.

Mr. **Orlando**. Certainly. We can communicate with the British Post and see if we can secure that information.

Mrs. **Bentley**. I'd like to have it from the Philippines and from Italy as well. Okay?

Mr. **Orlando**. Certainly.

[A subsequent response follows:]

Comparable Salaries of Foreign Postal Administrations

Concerning comparable salaries and benefits of individuals in foreign postal administrations with equivalent responsibilities, the Postal Service has posed this question to British, Italian, and Philippine postal authorities. Responses have not yet been received, but will be provided to the Subcommittee at a later date.

[Editor's note.—See the November 4, 1988 letter from the Postal Service to Congresswoman Bentley which can be found at the end of the hearing.]

Mrs. **Bentley**. Because the people who pay to keep your service going are on this side of the ocean. I think these are the people—Americans who work on American ships. I think we need to look at that.

Thank you, Mr. Chairman.

Mr. **Jones**. Thank you, Mrs. Bentley.

Mr. Orlando, thank you for your testimony here this morning, and Mr. Young, it's a delight to have you.

Mr. **Orlando**. Thank you, Mr. Chairman, and thank the other Members of the Subcommittee.

Mr. **Jones**. Our next witness is Mr. John J. Stocker, President of the Shipbuilders Council of America.

Mr. **Stocker**. Thank you, Mr. Chairman.

STATEMENT OF JOHN J. STOCKER, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA

Mr. **Stocker**. Good morning, and thank you for the opportunity to appear before this Subcommittee this morning to address several pieces of legislation to amend the operating-differential subsidy program authorized by the Merchant Marine Act of 1936.

I would ask that my prepared remarks be entered into the record.

Mr. **Jones**. Your prepared statement will appear in the record immediately following your oral presentation.

Mr. **Stocker**. The matters that are before this Subcommittee today are designed to address the sagging fortunes of the privately-owned U.S.-flag operating community, especially the liner segment. Indeed, the liners are down to seven operators. Mrs. Bentley mentioned awhile ago there are eight companies engaged in the foreign commerce of the United States.

The common thread in all the legislation that appears before us today is to grant subsidized U.S.-flag liner operators with permanent authority to build, convert, and acquire vessels in foreign shipyards. The resulting tonnage would be eligible for ODS. The legislation would also allow the immediate carriage of Government-impelled cargoes subject to section 901 of the Merchant Marine Act of 1936.

Only one bill, H.R. 3297, would not grant U.S.-flag liner operators who receive subsidies the authority to build abroad.

Another feature of the legislation is to free subsidized liner operators from the existing trade route limitations and restrictions on providing unsubsidized service with U.S.-flag vessels in the international trade. These bills recognize that operators must have subsidy and flexibility to compete effectively in the international arena.

The Shipbuilders Council does not object to those portions of the legislation which provide subsidized liner operators with increased operating flexibility. Such flexibility is essential for them to survive in the current marketplace.

However, we have been and remain unalterably opposed to the unrestricted build-foreign authority for subsidized U.S.-flag and liner operators in the absence of a domestic shipbuilding program. For the most part, the legislation ignores the fact that shipbuilders need similar help, as do the operators, to support their efforts in the international arena.

We also oppose the elimination of the three-year waiting period for foreign-built U.S.-flag liner vessels to transport preferenced cargo. For years, the fortunes of the U.S.-flag fleet, including the liner operators, were tied to U.S. shipyards. However, the enactment of the Omnibus Budget Reconciliation Act in August 1981 severed this longstanding tie, and this Subcommittee is well aware of the resulting impacts on the U.S. shipbuilding industry that have occurred since that time period.

However, there have been some findings and recommendations made by the Commission on Merchant Marine and Defense that would suggest that a change might be in the offing. In October of 1987, the Commission issued its preliminary findings of facts and conclusions concerning the condition of America's maritime industries. The key finding is that there is a clear and growing danger to our national security because of the deteriorating condition of our Nation's maritime industries. According to the Commission, the total collapse of commercial ship construction has been a major factor in the decline of U.S. shipbuilding capability.

Government construction alone is insufficient to maintain diversified shipbuilding and ship repair industries. Government construction alone is also insufficient to maintain the industrial supplier base which is critical to meet mobilization requirements at the time of war or national emergency.

In order to address the crisis the Commission had identified in October of 1987, in January of this year, the Commission made seven recommendations ranging from ODS reform to the implementation of a national program for merchant ship construction in U.S. shipyards. The bottom line for the commissioners is that any

ODS reform must be linked to a commercial ship construction program in the U.S. Those recommendations must be enacted as a total package.

The Shipbuilders Council applauds the work of the Commission and supports its recommendations. We endorse all—I repeat, all—of the seven recommendations as a comprehensive package. Any legislation that attempts to address the concerns of the operating community without addressing the revitalization of the shipbuilding industry would be totally unacceptable for the country as well as our industry.

The Council does have a number of ideas concerning the linkage between the subsidized liner operator being permitted to build or acquire vessels abroad and a domestic shipbuilding program. In addition, we have some specific recommendations on the subject of the carriage of Government and grant-impelled cargo which we would like to share with the Members of the Subcommittee.

The Council's proposal entails three major parts: ODS reform, our procure-and-charter program for commercial ships built in the United States, and cargo. Our recommendations regarding these three elements are the following.

The true objective of the ODS reform program should be to place the privately-owned U.S.-flag liner fleet on an operating and asset parity with its foreign-flag competitors so that the fleet can effectively and efficiently compete for commercial cargo. Commercial cargo generation should be the primary goal of the U.S.-flag liner fleet, and legal impediments to competing for such cargo should be eliminated.

To achieve asset parity, the U.S.-flag liner operator will be allowed to build foreign and receive ODS in conjunction with the U.S. domestic shipbuilding program.

To implement the Commission's recommendation that an operator should have limited authority to build foreign in conjunction with the U.S. domestic shipbuilding program, the procure-and-charter program is essential. The program would call for the construction of twelve commercially viable, yet militarily-useful ships per year over a ten-year period. These U.S.-built, U.S.-flag vessels would be primarily responsible for meeting critical strategic sealift requirements in time of emergency. No restrictions would be placed on where the ships could trade.

As these commercially viable, yet militarily-useful ships built under the procure-and-charter program join the fleet, they will be given priority preference to transport military and Government-impelled cargo. After four years, foreign-built U.S.-flag vessels will be prohibited from carrying such cargo.

The authority for U.S. operators to contract to build foreign would take effect only after a firm commercial construction contract has been signed in the U.S. For each ship built in a U.S. yard, an operator would have the authority to acquire a foreign-built vessel of similar displacement. This is not a strict one-to-one requirement that would be placed on a liner operator. To the contrary, an operator who constructs a vessel in a U.S. shipyard for the domestic trade would earn foreign-build permission which it could sell or otherwise transfer to another liner operator.

To summarize: it is imperative that action be taken now. These legislative recommendations are essential for the survival of our industry. Embrace these initiatives so that more shipyards will not be forced into closure, so that more jobs will not be lost, and so that the security of our Nation will be preserved and protected.

This concludes my prepared statement, Mr. Chairman. I'd be happy to answer any questions you may have.

[Mr. Stocker's prepared statement may be found at the end of the hearing.]

Mr. JONES. Thank you very much, sir.

What do you consider the minimum shipyard base necessary to meet our defense needs? What level of commercial ship construction is necessary to support that base?

Mr. STOCKER. Well, of course, Mr. Chairman, this is a subject that is probably more appropriately addressed to the Defense Department.

There have been a number of studies, as you well know, that have been done over the past four or five years. Any analysis that's been done is dependent on the kind of scenario that you might structure for what might involve the United States in a future conflict.

However, I might point out that one study that was completed in 1984 indicated that 110 private shipyards were needed with an employment base of roughly 112,000 production workers. Looking at that same base today, only 69 remain open today, with a total employment of roughly 80,000 production workers.

In terms of the level of construction necessary to support the base, we have often stated that we probably need some program between 15 and 20 commercial vessels per year to at least sustain the sufficient base of new construction building ways compared to the current situation. Of course, that doesn't argue for any expansion in the marketplace at all.

Mr. JONES. What impact do domestic component requirements have on your costs?

Mr. STOCKER. Well, certainly I would be untruthful if I didn't say that American marine equipment manufacturers have the same problems that we do. Obviously, they cannot be price competitive when they're competing in an international market where their competitors are subsidized by their home governments. We know that's true in shipbuilding; a fact, by the way, which both OMB and the Special Trade Representative's Office have ignored up to now. We know that's true in propulsion plants, in reduction gears, and other ship systems. Certainly, if you're buying from domestic sources, you're going to pay a higher price than you might if you had unrestricted procurement worldwide.

However, if we're going to have a program to sustain a mobilization base in terms of shipyards, we probably need the same thing in terms of suppliers as well.

Mr. JONES. Mr. Stocker, Mr. Anderson would like you to elaborate on the nature of Government subsidies, favorable tax treatment, and other matters that favor the shipbuilding industry for other countries at the expense of our shipbuilding industry. As a followup, what is the best way to combat this problem, excluding specific action by the United States Government in assisting this Country's shipbuilding industry?

Mr. STOCKER. Well, we can document a number of areas where there are direct cash payments being made to shipyards by their home governments. This is particularly true in the case of West Germany. We have been told, for example, by government officials in West Germany that the decision made to subsidize the two shipyards currently engaged in building the five container ships for American President Lines was that the Ministry of Defense in West Germany provided direct cash payments to the shipyards. In fact, this wasn't even a decision that was based on any recommendation coming from the Minister of Transport, which is the normal route for subsidizing shipyards and shipowners in West Germany.

By the way, the subsidy level in those cases equated to 55 percent of the total cost of the ship. Those subsidies involved the direct transfer of Federal German funds to the working capital funds of both of the shipyards.

In the case of Canada, the Canadian yards receive benefits for instituting industrial development programs from the local community. I can tell you that, in many cases, the yards in Quebec receive direct financial support. In fact, their shares are partially owned by the provincial government. We know that in every case, in terms of Canadian Government support for their shipyards, wherever there is a program to provide jobs for the local community, either the federal government of Canada or the provincial government steps in with both tax writeoffs as well as direct cash infusions to that yard.

We are in the process of studying some specifics involving some of the Far Eastern countries, but one of the areas we know where there is substantial support is in the area of financing—export financing.

In terms of how do you combat those kinds of activities, our first request seems to be a simple one; that is, to ask both the State Department and the Special Trade Representative to be more aggressive in terms of negotiating with our trading partners. We have recently found that the State Department is much more aware of the situation, and I think it is beginning to look at our case with greater interest than it had in the past. I hope that continues.

In short, if negotiations fail, the only way you can combat subsidy practices in a country that refuses to stop subsidy practices is to probably engage in a counterprogram of your own.

Mr. JONES. Thank you.

Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman.

Mr. Stocker, what did you just say about how the State Department was beginning to look more favorably upon—what?

Mr. STOCKER. Well, one of the things that I've found recently, Mrs. Bentley, was that the State Department officials were totally unaware—or at least reputed to be at the working level—of the subsidy practices that foreign governments were engaged in. We've made some information available to them; and I think, at least we're hopeful, that there are some levels within State that will become more sensitized as they discuss these kinds of issues with their international counterparts to ensure that they at least bring our case forward in those discussions.

Mrs. **Bentley**. What have they done over the last 30 years?

Mr. **Stocker**. Probably engaged in more jovial pursuits in arms control and other areas.

Mrs. **Bentley**. Speaking of the State Department, I believe the State Department was the big promoter to sell the Aegis missile cruiser to Japan because their shipbuilding industry was so depressed? Is that right?

Mr. **Stocker**. That's correct.

However, due to your good offices, I think they have become more sensitized to the condition of U.S. industry. Although I have to confess this: we haven't seen very much concrete action on their part recently.

Mrs. **Bentley**. Very much concrete action on whose part?

Mr. **Stocker**. On their part. On the State Department's.

Mrs. **Bentley**. In what way?

Mr. **Stocker**. Well, I have not been given any indication, or I have not been made aware, of any representation yet made by the State Department to the Japanese to suggest that the construction of those ships should take place in the United States if the technology transfer is to take place at all.

Mrs. **Bentley**. To my knowledge, they haven't. They're still hoping that they can get the program over there.

Going to the procure-and-charter program, which would require substantial Federal funding, do you know of a less expensive way that would help the shipbuilding industry?

Mr. **Stocker**. It's certainly true that, in order to build the number of ships that the Commission is looking at, we're probably talking, just as a rule of thumb, somewhere between $800 million and $1 billion a year, depending on the ship types. Are there other methods that could be undertaken? Certainly. You could certainly engage in build-and-charter efforts; if there were sufficient markets for the operators to feel that there would be long-term charters capable of gaining a sufficient return on the capital investment that they'd placed in the ships.

I hesitate to say this but it's also certainly true that an outright subsidy program would probably be less costly than a direct appropriation for construction on the part of the Government.

Mrs. **Bentley**. Perhaps a mandated cargo preference quantity or an amount of cargo that had to move on American-flag ships would even be less expensive?

Mr. **Stocker**. That's certainly less expensive to the U.S. Treasury, which is why we've suggested that, at least as a modest step forward, perhaps a requirement that those ships carrying Government cargo should be U.S. built.

Mrs. **Bentley**. That's the reason that you're saying that U.S.-built vessels should be the ones to have preference to Government grant-impelled cargoes?

Mr. **Stocker**. That's right.

Mrs. **Bentley**. Would this approach increase the shipping cost to the Government?

Mr. **Stocker**. It may. We have not have a chance to look at all the economics in terms of freight rates, since we aren't operators.

But it could be likely that freight rates to, say the Department of Agriculture, or AID, might increase. But that could be resolved by *establishing a fund within* MARAD that could offset them, so that we could see what the cost of support would be, for both the operators and the shipyards.

Mrs. BENTLEY. Could it be that the increase in the freight rates to the Government would be much less than the cost to the Government for a procure-and-charter program?

Mr. STOCKER. Likely. It's likely true that it would be less expensive to implement a program like that than to procure the ships outright.

Mrs. BENTLEY. I've become very, very concerned about the diminishing numbers of skilled workmen in the shipyards, in particular, and also in our general industrial base. Would you be able to provide for the record the shortages that you have had reported to you from your members, such as the machinists, which I mentioned a little while ago, from the Bethlehem Sparrows Point Yard. We know about the electricians who went up to the Philadelphia Navy Yard, and we know about the boilermakers who went and shipfitters who went to the Long Beach Navy Yard.

I think it would be very important for the record if we could get a list of any of these shortages that your members are finding around the country at this time, or which they've had within the past year. What did they have to do to resolve them, if anything? And what is the situation today? I'd like to have that for the record.

Mr. STOCKER. We'd be glad to do that.

Mrs. BENTLEY. All right.

Thank you, Mr. Chairman.

[The information follows:]

SKILL SHORTAGES AS REPORTED IN JULY 1988

Survey data is recorded for each occupation noted in short supply. One yard reported shortages in all major skill areas. The average period of shortage reflects the period of time in which the skill shortage has existed. Survey data does not provide any indication as to when shortages are expected to be rectified.

	Percent of yards reporting	Average period of shortages (months)
Occupation/production:		
Electronic technicians	33	17
Inspectors	17	6
Insulators	25	12
Loftworkers	25	18
Machine-tool operators	33	7
Machinists, production	42	13
Marine electricians	50	15
Marine machinists	42	16
Marine pipefitters	50	11
Marine riggers	25	9
Painters	33	6
Sheet-metal workers	50	19
Shipfitters	42	16
Shipwrights	25	9
Welders	42	17
Welders, machine (arc or gas)	50	17

	Percent of yards reporting	Average period of shortages (months)
Occupation/maintenance:		
Carpenter, maintenance	17	9
Electricians, maintenance	33	13
Mechanics, maintenance	25	13
Pipefitters, maintenance	25	13
Welders	25	9
Occupation/material movement and service:		
Crane operators	42	11
Guards	17	9
Forklift operators	17	9
Truckdrivers	17	9

Mr. JONES. Thank you, Mrs. Bentley.

Mr. Stocker, I appreciate your presence here today. That concludes our hearing. The Subcommittee stands adjourned.

[Whereupon, at 12:18 p.m., the Subcommittee was adjourned.]

[The following was received for the record:]

STATEMENT OF THE HONORABLE JOHN GAUGHAN, MARITIME ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE OF THE HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE, ON FIVE ODS REFORM BILLS: H.R. 3537, H.R. 3808, H.R. 3297, H.R. 2462, AND H.R. 1088.

March 30, 1988

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE ON MERCHANT MARINE. MY NAME IS JOHN GAUGHAN AND I AM THE MARITIME ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION.

IT IS A PLEASURE FOR ME TO BE HERE THIS MORNING TO PRESENT THE VIEWS OF THE ADMINISTRATION WITH RESPECT TO THE FIVE ODS REFORM BILLS THAT ARE THE SUBJECT OF THIS HEARING. AS YOU KNOW, THESE BILLS ARE AS FOLLOWS:

H.R. 3537, INTRODUCED BY MR. LENT UPON REQUEST OF THE ADMINISTRATION. H.R. 3537 SETS FORTH THE ADMINISTRATION'S ODS REFORM BILL THAT WAS TRANSMITTED TO THE CONGRESS LAST OCTOBER;

H.R. 3808, INTRODUCED BY CHAIRMAN JONES AND OTHERS, THAT GENERALLY SETS FORTH THE ODS REFORM PROPOSAL OF THREE U.S.-FLAG LINER OPERATORS;

H.R. 3297, INTRODUCED BY MR. DAVIS, SETTING FORTH ANOTHER ODS REFORM PROPOSAL SIMILAR IN MANY WAYS TO THE ADMINISTRATION'S BILL;

H.R. 2462, INTRODUCED BY CHAIRMAN JONES AND MR. ANDERSON, THAT PROVIDES FOR THE MAST ALTERNATIVE TO ODS REFORM; AND

H.R. 1088, INTRODUCED BY MR. BIAGGI, THAT CONTAINS A NUMBER OF PROMOTIONAL PROVISIONS INCLUDING ODS REFORM.

MR. CHAIRMAN, EVERY ONE OF THESE ODS REFORM BILLS REPRESENTS A GOOD FAITH ATTEMPT TO COME TO GRIPS WITH THE CONTINUING DETERIORATION OF THE U.S.-FLAG LINER FLEET OPERATING IN OUR FOREIGN COMMERCE. EACH OF THESE BILLS HAS A NUMBER OF GOOD POINTS. INDEED, WHEN I READ THROUGH THE FIVE BILLS, I WAS ENCOURAGED BY HOW CLOSE WE ARE TO A CONSENSUS IN SEVERAL MAJOR AREAS. THEREFORE, IT IS NOT MY INTENT TODAY TO GIVE YOU A COMPREHENSIVE COMPARISON OF WHAT WE PERCEIVE TO BE THE GOOD AND BAD POINTS OF THESE FIVE BILLS.

MR. CHAIRMAN, I APPEAR BEFORE YOU THIS MORNING WITH SOME COMMENTS THAT I HOPE WILL BE OF ASSISTANCE, AND TO OFFER TO WORK WITH YOU, THE COMMITTEE, AND THE MARITIME INDUSTRY IN ORDER TO REACH A CONSENSUS ON ODS REFORM THAT WILL RESULT IN THE ENACTMENT OF MUCH NEEDED LEGISLATION TO REVITALIZE THE U.S. LINER FLEET.

WHEN SECRETARY BURNLEY APPEARED BEFORE THE FULL MERCHANT MARINE AND FISHERIES COMMITTEE EARLIER THIS MONTH, HE TESTIFIED THAT:

A. THE DEPARTMENT OF TRANSPORTATION IS COMMITTED TO FOSTERING THE ABILITY OF THE U.S.-FLAG FLEET TO OPERATE ON AN EQUAL COMPETITIVE FOOTING WITH FOREIGN-FLAG CARRIERS WHILE RECOGNIZING THAT THE COSTS OF ANY RESTRUCTURED SUPPORT PROGRAM MUST BE FISCALLY RESPONSIBLE; AND

B. ODS REFORM IS ONE OF THE DEPARTMENT'S TOP LEGISLATIVE PRIORITIES THIS YEAR.

THEREFORE, I PLAN TO MAKE SOME GENERAL COMMENTS ON WHAT WE BELIEVE TO BE THE MOST IMPORTANT ELEMENTS OF THE VARIOUS BILLS

BEFORE YOU THIS MORNING, USING H.R. 3537 AS THE BENCHMARK ACCEPTABLE TO THE ADMINISTRATION. AS YOU KNOW, FOUR OF THESE FIVE BILLS WOULD MODIFY EXISTING LAW IN ORDER TO REFORM THE ODS PROGRAM FOR LINER OPERATORS. ONLY ONE BILL, H.R. 2462, CHAIRMAN JONES' MAST BILL, WOULD PROVIDE A LONG TERM ALTERNATIVE TO OPERATING SUBSIDY AS WE KNOW IT TODAY.

THE ELEMENTS OF ALL THESE BILLS THAT I CONSIDER MOST IMPORTANT AND WOULD LIKE TO COMMENT ON ARE AS FOLLOWS:

1. AWARD OF ODS: THE AWARD OF ODS IS DISCRETIONARY UNDER CURRENT LAW, AND CURRENT POLICY PRECLUDES NEW ODS AWARDS OR A SIGNIFICANT INCREASE IN EXISTING ODS CONTRACTS. AS A RESULT, SOME U.S.-FLAG LINER OPERATORS ENJOY SUBSIDY AND SOME DO NOT. ONE OF THE FUNCTIONS OF ODS REFORM WOULD BE TO PROVIDE ALL U.S.-FLAG LINER OPERATORS WITH A LEVEL PLAYING FIELD. OUR PROPOSAL, SET FORTH IN H.R. 3537, WOULD PROVIDE A ONE YEAR WINDOW FOR CURRENTLY UNSUBSIDIZED OPERATORS TO APPLY FOR ODS IN THE FORM OF GRANTS AND FOR EXISTING OPERATORS TO AMEND THEIR CONTRACTS. OF THE REMAINING BILLS, ALL BUT H.R. 3808, THE 3-CARRIER BILL, WOULD PROVIDE A MEASURE OF ASSURANCE FOR THE ENTRY OF NEW ODS OPERATORS. H.R. 3297, H.R. 2462 AND H.R. 1088 WOULD GENERALLY PROVIDE FOR MANDATORY ODS AWARDS, AN APPROACH THAT IS UNACCEPTABLE TO THE ADMINISTRATION.

2. FISCAL RESPONSIBILITY: IN ORDER FOR ANY RESTRUCTURED ODS PROGRAM TO BE FISCALLY RESPONSIBLE, IT IS NECESSARY THAT ALL U.S.-FLAG LINER OPERATORS BE GIVEN EVERY OPPORTUNITY TO CUT COSTS AND GENERATE INCOME, AND I AM PLEASED TO NOTE THAT MOST OF THE FIVE BILLS MAKE SOME PROVISION FOR THIS. I BELIEVE THE MOST IMPORTANT OF THESE ARE THE FOLLOWING:

A. WORLD-WIDE ACQUISITION. AS YOU KNOW, FOR SOME TIME NOW THE ADMINISTRATION HAS BEEN OF THE STRONG VIEW THAT IF OUR LINER OPERATORS ARE TO COMPETE EFFECTIVELY IN OUR FOREIGN TRADES, THEY MUST BE ABLE TO CONSTRUCT OR ACQUIRE THEIR VESSELS ANYWHERE. THIS HAS BEEN A VERY CONTROVERSIAL PROPOSAL, BUT IT IS INTERESTING TO NOTE THAT ALL BUT H.R. 3297 AND H.R. 2462 MAKE SOME PROVISION FOR PERMANENT AUTHORITY TO ACQUIRE FOREIGN CONSTRUCTED VESSELS. H.R. 3808 AND H.R. 1088 ALSO HAVE A PROVISION SIMILAR TO OUR PROPOSAL IN H.R. 3537 THAT THESE FOREIGN BUILT VESSELS WOULD BE IMMEDIATELY ELIGIBLE TO TRANSPORT PREFERENCE CARGOES.

B. SUBSIDIZED WAGE COSTS AND MANNING. THIS IS ANOTHER AREA WHERE FISCAL RESPONSIBILITY MUST BE EXERCISED. AT THE PRESENT TIME, MANNING IS DETERMINED AT THE TIME OF THE CONSTRUCTION OR RECONSTRUCTION OF A VESSEL OR WHEN A VESSEL CHANGES OWNERSHIP, AND SUBSIDY IS PAID FOR ALL WAGE COSTS NEGOTIATED THROUGH COLLECTIVE BARGAINING IN ACCORDANCE WITH EXISTING LAW. OUR PROPOSAL IN H.R. 3537 WOULD GENERALLY PROVIDE THAT ODS WOULD BE LIMITED TO WAGES IN THE INDUSTRY'S MOST ECONOMICAL WAGE PACKAGE FOR COAST GUARD REQUIRED MANNING ONLY. CURRENTLY SUBSIDIZED OPERATORS WOULD TRANSITION TO THE WAGES ONLY SYSTEM AFTER 3 YEARS; NEWLY SUBSIDIZED OPERATORS WOULD BE LIMITED TO WAGES ONLY FROM THE START. IT IS UNFORTUNATE THAT ONLY ONE BILL, H.R. 3297, WOULD PROVIDE SIMILAR DISCIPLINE FOR ODS COSTS. H.R. 2462, CHAIRMAN JONES' MAST BILL, IS NOT COMPARABLE, AS MAST PAYMENTS WOULD NOT BE RELATED TO MANNING AND WAGE COSTS. H.R. 1088 WOULD LIMIT ODS TO WAGE COSTS, BUT THERE WOULD APPEAR TO BE NO OTHER COST RESTRICTIONS. FINALLY, H.R. 3808, THE 3-CARRIER BILL, CONTAINS NO COST EFFICIENCIES WHATEVER.

MR. CHAIRMAN, AS WE ALL KNOW, SOME OF THE MAJOR MARITIME NATIONS, PRINCIPALLY IN WESTERN EUROPE, ARE PLACING SOME OR ALL OF THEIR MERCHANT VESSELS UNDER SO-CALLED INTERNATIONAL REGISTRIES IN AN ATTEMPT TO MAINTAIN CONTROL OVER THEIR NATIONAL FLEETS AND PERMIT REDUCTIONS IN PERSONNEL COSTS

THROUGH EMPLOYMENT OF NON-NATIONAL SEAMEN. THEREFORE, IT IS CRUCIAL THAT WE INSTITUTE SOME REASONABLE COST CONTROL MEASURES IN THIS AREA SO THAT WE CAN IMPROVE THE COMPETITIVENESS OF U.S.-FLAG LINER VESSELS.

C. OPERATING FLEXIBILITY. AT THE PRESENT TIME, U.S.-FLAG LINER OPERATORS ARE RESTRICTED TO 30 TO 34 TRADE ROUTES AS SPECIFICALLY DEFINED IN ODS CONTRACTS, AND UNDER CURRENT LAW, REQUIREMENTS FOR ANY CHANGES ARE USUALLY TIME-CONSUMING AND COSTLY. THERE WOULD APPEAR TO BE AGREEMENT THAT OPERATING FLEXIBILITY WOULD GREATLY ENHANCE THE ABILITY OF OUR LINER OPERATORS TO OPERATE PROFITABLY. OUR PROPOSAL IN H.R. 3537 WOULD GENERALLY REMOVE ALL RESTRICTIONS ON THE SUBSIDIZED AND NONSUBSIDIZED OPERATION OF U.S.-FLAG LINER VESSELS IN OUR FOREIGN TRADE. RESTRICTIONS IN THE OTHER BILLS WOULD APPEAR TO BE DESIGNED TO PROTECT THE RIGHTS OF SMALL OPERATORS, PROVIDE A TRANSITION PERIOD FOR ALL OPERATORS, AND ACCOMMODATE SPECIAL OPERATIONS SANCTIONED BY A PARTICULAR BILL. H.R. 3537 ENCOURAGES MARKET EXPANSION BY UNITED STATES-FLAG CARRIERS, PARTICULARLY INTERMODAL CARRIERS, BY PERMITTING THESE CARRIERS TO ISSUE THROUGH BILLS OF LADING BETWEEN THE ORIGINAL PORT OF LADING AND THE PORT OF FINAL DISCHARGE. THIS SERVICE MAY UTILIZE A COMBINATION OF U.S. LINE HAUL VESSELS WITH U.S. OR FOREIGN-FLAG DELIVERY VESSELS, UNDER TERMS AND CONDITIONS DETERMINED BY THE SECRETARY. THE PROVISIONS OF LAW REQUIRING THE USE OF UNITED STATES-FLAG VESSELS WOULD BE DEEMED FULFILLED UNDER THIS ARRANGEMENT, OTHER THAN CERTAIN REQUIREMENTS OF THE DEPARTMENT OF DEFENSE.

AS THERE IS GENERAL CONSENSUS THAT OPERATING FLEXIBILITY IS REQUIRED, I BELIEVE THAT WE SHOULD BE ABLE TO REACH SOME FORM OF AGREEMENT ON THIS ISSUE.

MR. CHAIRMAN, THESE PROVISIONS -- WORLD-WIDE ACQUISITIONS, REDUCED SUBSIDY PER SHIP AND INCREASED OPERATING FLEXIBILITY -- ARE CRITICAL TO THE SUCCESS OF ANY ODS REFORM LEGISLATION.

3. CARGO PREFERENCE REFORMS: ANOTHER IMPORTANT ELEMENT OF ANY SUCH LEGISLATION SHOULD BE REFORM OF THE ODS SYSTEM WHEN PREFERENCE CARGOES ARE TRANSPORTED. AS YOU KNOW, AT THE PRESENT TIME, ODS IS PAID BUT IS REDUCED IF PREFERENCE CARGO REVENUES EXCEED CERTAIN LIMITS. UNDER H.R. 3537, THE ADMINISTRATION'S BILL, ODS WOULD NOT BE PAID FOR THE TRANSPORTATION OF PREFERENCE CARGOES. H.R. 2462, CHAIRMAN JONES' MAST BILL, TAKES A SIMILAR APPROACH, BUT NONE OF THE OTHER BILLS WOULD APPEAR TO ADDRESS THIS PROBLEM OF DOUBLE SUBSIDY. IN ADDITION, THE ADMINISTRATION'S BILL WOULD ELIMINATE THE REQUIREMENT FOR CARRIAGE OF PREFERENCE CARGO BY GEOGRAPHICAL AREA AND PERMIT A COMBINED U.S./FOREIGN-FLAG SERVICE IN THE CARRIAGE OF SUCH CARGOES. THE OTHER BILLS DO NOT CONTAIN THESE PROVISIONS.

4. PROGRAM COST: IN ANY LEGISLATION OF THIS TYPE, THE BOTTOM LINE IS ALWAYS COST TO THE AMERICAN TAXPAYER. WE ESTIMATE THAT OUR ODS REFORM PROPOSAL, SET FORTH IN H.R. 3537, WOULD INVOLVE A MODEST COST INCREASE OF FROM $300 MILLION TO $500 MILLION OVER CURRENT CONTRACT LIABILITIES FOR THE NEXT TEN YEARS, AND ONLY $100 MILLION DURING THE FIRST 5 YEARS. THIS IS THE MAXIMUM COST INCREASE ACCEPTABLE TO THE ADMINISTRATION GIVEN THE CURRENT BUDGET DEBATE. IN RETURN FOR THE ADDED COST, H.R. 3537 PERMITS ENTRY OF ADDITIONAL VESSELS INTO THE PROGRAM THROUGH A REDUCTION IN ODS COST PER VESSEL AND A LIMIT ON THE NUMBER OF SHIPS SUBSIDIZED PER YEAR. ASSUMING NO NEW OPERATORS OR VESSELS WOULD GAIN ENTRY INTO THE PROGRAM UNDER H.R. 3808, THIS BILL WOULD RESULT IN NO ADDITIONAL COSTS. IT WOULD, HOWEVER, PRESERVE THE EXISTING HIGH PER VESSEL ODS COST AS WELL AS INCREASE THE ADVANTAGE EXISTING SUBSIDIZED OPERATORS ENJOY OVER UNSUBSIDIZED OPERATORS WHO ARE NOT ASSURED EQUAL ACCESS

INTO THE PROGRAM UNDER THE BILL. WE ESTIMATE THAT ALL THE OTHER BILLS WOULD INVOLVE A SUBSTANTIAL COST INCREASE THAT CANNOT BE JUSTIFIED AT THIS TIME.

MR. CHAIRMAN, THAT CONCLUDES MY VERY BRIEF REMARKS THIS MORNING ON THESE FIVE ODS REFORM BILLS. IN CLOSING, I WOULD LIKE TO EMPHASIZE THE ADMINISTRATION'S SUPPORT FOR ODS REFORM THAT WILL ASSIST U.S.-FLAG OPERATORS IN BECOMING MORE COMPETITIVE WITH FOREIGN-FLAG OPERATORS, AND OUR DESIRE TO WORK WITH YOU TO ENACT A REASONABLE AND FISCALLY RESPONSIBLE MEASURE THAT WOULD IMPROVE THE COMPETITIVENESS OF THE U.S.-FLAG LINER FLEET. THANK YOU.

ONE HUNDREDTH CONGRESS

WALTER B. JONES, NORTH CAROLINA, CHAIRMAN

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U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
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BARBARA L. CAVAS

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MINORITY CHIEF COUNSEL
DUNCAN C. SMITH III

April 11, 1988

The Honorable John Gaughan
Administrator
Maritime Administration
Department of Transportation
Washington, D.C. 20590

Dear Mr. Administrator:

Thank you for your recent appearance at our Subcommittee hearing concerning legislation to revise and improve the operating-differential subsidy (ODS) program. I greatly appreciate your efforts in promoting within the Administration a more positive approach to legislative initiatives to encourage the growth and development of our American merchant marine.

I have two issues that I did not have time to discuss with you at the hearing and I would appreciate it if you could respond for our Subcommittee record.

One of the provisions of the Administration's ODS bill would subject the new contracts to annual appropriations. I have your response to my initial question during the hearing on that issue and I have a followup question with regard to the text and intent of the Administration's legislation. Section 1411 of H.R. 3537 would allow a U.S. operator to reflag his vessels if the new ODS contracts are cancelled by the Government "without just cause". The section further states that failure of Congress to appropriate funds would be considered "just cause" and, therefore, under a literal reading of the bill the vessel operators would not be allowed to reflag their vessels under that situation. This does not seem fair to me and I was wondering if that was, indeed, the intent of this provision of the bill.

On another issue, I understand that the amount of ODS money to be paid to a vessel operator under the Administration's proposal (Section 1403(c)(1)(B)(ii)) would be based on the lowest wage agreements in effect during 1987 -- including Military Sealift Command wage contracts. Is it fair and economically reasonable to use the lower cost MSC contracts as the basis for the new ODS contracts? Do you have comparative cost figures showing the various wage packages for 1987 for subsidized, unsubsidized, and Government vessels? Do we know what the comparable foreign-flag vessel wage packages are for the same time period?

I would appreciate it if you could send me a response on these points so that we could include this information in our hearing record at the appropriate place.

Thank you again for your participation and assistance at our hearing.

Sincerely,

Norman Lent

NORMAN F. LENT
Ranking Minority Member
Subcommittee on Merchant Marine

NFL:krb

US Department
of Transportation
**Maritime
Administration**

Administrator

400 Seventh Street S.W.
Washington D.C. 20590

May 4, 1988

Honorable Norman F. Lent
Committee on Merchant Marine
and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Lent:

This is in response to your inquiry of April 11, 1988, on the Administration's operating-differential subsidy (ODS) reform proposal, H.R. 3537.

As noted in your letter, section 1411 of H.R. 3537 would allow a U.S.-flag operator to reflag vessels covered under its ODS contract if the Government cancels the contract "without just cause." Under section 1411 failure of Congress to appropriate funds would be considered "just cause," thereby preventing the operator from reflagging the vessels.

In view of the questions raised by you and others concerning the equity of this provision, we have reviewed the background of this issue and now agree that its imposition would not achieve an equitable result. Accordingly, we propose striking the first two sentences of section 1411(a) of H.R. 3537 and substituting the following sentence: "The Contractor or Holder, upon compliance with the provisions of this section, may as its sole remedy transfer to foreign registry the vessels covered by an Amended ODS Contract or Grant Agreement held by him, in the event that the United States cancels such contract or agreement without just cause, including the failure of Congress to appropriate funds." I believe the proposed modification should resolve this issue.

With respect to your question on section 1403(c)(1)(B)(ii), your interpretation of this provision is correct. ODS for wages would be based on the most economical wage agreement in effect during 1987, including those negotiated under Military Sealift Command (MSC) contracts. We believe the use of MSC contracts as part of our consideration is fair because these contracts were negotiated with and agreed to by the affected maritime unions. We see no reason why the concessions made to MSC should not be made to subsidized operators. However, I am prepared to listen to any reasonable alternative that would achieve the same level of cost efficiency proposed in the Administration's bill.

As you requested, I have enclosed a table comparing the 1987 wage costs for similar vessels operated by a subsidized and an unsubsidized operator and under MSC contract. These figures have not appreciably changed in 1988. We are not aware of any comparable foreign wage packages, i.e., foreign vessels contracted by the military under wage agreements that differ from those of foreign-flag vessels in commercial operation. Our best judgment is that foreign manning and wage packages would in all likelihood be the same under any mode of operation.

If I can be of any further assistance to you, please let me know.

Sincerely,

JOHN GAUGHAN
Maritime Administrator

Enclosure

(Source: Maritime Administration, 4 May 1988)

COMPARATIVE DAILY WAGE COSTS FOR SIMILAR SIZED VESSELS

	SUBSIDIZED	UNSUBSIDIZED	CONTRACTED BY MSC
BASE WAGES	$2,475	$1,922	$2,151
VACATION	1,924	2,124	1,187
PENSION AND WELFARE	1,016	673	1,149
OTHER FIXED WAGE COSTS	517	356	178
OVERTIME	2,400	1,424	1,206
OTHER VARIABLE WAGE COSTS	727	1,085	645
	$9,059	$7,584	$6,516

THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-8000

PRODUCTION AND
LOGISTICS

P/IA

4 APR 1988
(4 April 1988)

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (RESEARCH,
DEVELOPMENT AND ACQUISITION)
ASSISTANT SECRETARY OF THE NAVY (SHIPBUILDING &
LOGISTICS)
ASSISTANT SECRETARY OF THE AIR FORCE
(ACQUISITION)
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE AGENCIES

SUBJECT: Cargo Preference Act of 1904

The Department of Justice (DOJ) in an opinion dated February 2, 1988, concluded that the Cargo Preference Act of 1904, 10 U.S.C. 2631, applies to all supplies that are contracted for by the Department of Defense regardless of whether the Department has title at the time of ocean shipment. This includes all supplies that are bought for the military departments that are clearly identified as destined for military use at the time of shipment by sea (see paragraph 14 on pages 6 and 7 of the DOJ opinion). This interpretation is effective immediately on all existing and prospective contracts.

My staff is currently analyzing the DOJ opinion to determine whether regulatory changes are necessary. In the interim, contracting offices shall be apprised of the DOJ opinion and instructed to ensure that solicitations and resultant contracts, as a minimum, include in full text the clause at FAR 52.247-64, Preference for Privately Owned US-Flag Commercial Vessels with its Alternate I or II as prescribed at FAR 47.507. The clause at DFARs 52.247-7200, Ocean Transportation of Government-Owned Supplies, shall not be used. Questions regarding this matter may be addressed to Mike Sullivan, Office of International Acquisition, phone 79351.

Eleanor Spector

ELEANOR R. SPECTOR
DEPUTY ASSISTANT SECRETARY OF
DEFENSE FOR PROCUREMENT

(ELEANOR R. SPECTOR
Deputy Assistant Secretary of
Defense for Procurement)

Attachment

ENCLOSURE(

INTERIM RECOMMENDATIONS FOR DEPARTMENT OF THE NAVY COMPLIANCE WITH THE CARGO PREFERENCE ACT OF 1904

I Applicability

The Cargo Preference Act of 1904 (10 USC 2631) requires exclusive (100%) use of US Flag vessels in the shipment of supplies purchased for the military departments regardless of whether the Department has title at the time of ocean shipment. Accordingly, the Alternate I (or Alternate II if overseas construction) version of FAR 52.247-64 is applicable to Department of Navy procurements. The following interim guidance is provided to ensure compliance with the Act.

II New Solicitations and Contracts

A. FAR 52.247-64, "Preference for Privately Owned U.S.-Flag Commercial Vessels"

1. FAR 52.247-64, Alternate I

The contracting officer shall include in full text the clause at FAR 52.247-64, deleting paragraphs (a) and (b) of the basic clause and substituting the paragraphs (a) and (b) of Alternate I, in all solicitations and resultant contracts with the exception of the following:

(i) Contracts with a total value of $25,000 or less awarded under the simplified purchase procedures of FAR Part 13.

(ii) Overseas Construction contracts - in which case the clause at 52.247-64, Alternate II shall be included: -

(iii) Contracts which are solely for supplies to be furnished to foreign nations and which are to be 100% reimbursed by the foreign nation and for which no US advanced funds, loans or guarantees will be provided.

Contracts which include a combination of requirements which would otherwise not require this clause and either US or foreign requirements which do require the clause, shall include the clause with an appropriate annotation of the contract line items to which the clause applies.

2. FAR 52.247-64, Alternate II

a. The Contracting Officer shall include, in full text the clause at 52.247-64, deleting paragraphs (a) and (b) of the basic clause and substituting paragraphs (a) and (b) of

ENCLOSURE(

Alternate II, in all overseas construction contracts over $25,000. However, in accordance with FAR 47.505, an additional special provision allowing for use of foreign flag vessels for up to 50% of the gross tonnage may be included in contracts involving military assistance, foreign aid, or similar projects under the auspices of the U.S. government when the receipient foreign nation furnishes or pays for at least 50% of the transportation.

b. As specified above, the Alternate I clause shall be included in all other construction contracts in full text.

B. DFARS 52.247-7200, "Ocean Transportation of Government-Owned Supplies"

The clause at DFARS 52.247-7200 SHALL NO LONGER BE USED.

C. Representation of Extent of Ocean Transport

The contracting officer shall include a provision substantially the same as follows in all solicitations which include the clause at FAR 52.247-64. For overseas construction contracts, change " Alternate I to "Alternate II".

REPRESENTATION OF EXTENT OF OCEAN TRANSPORT

The FAR clause at 52.247-64, Alternate I, Preference for Privately Owned US-Flag Commercial Vessels, ALT. I, will be included in full text in any contract resulting from this solicitation. The Offeror is required to provide information related to the extent of ocean transport anticipated by checking one of the following:

The offeror represents that it does not anticipate a requirement for ocean transport of supplies, to include any ocean shipment of any subcontracted supplies/components, in connections with their offer. Notwithstanding this representation, the offeror recognizes the requirements of the clause entitled "Preference for Privately Owned US-Flag Commercial Vessels, Alt. I", and will full comply with these requirements in the event ocean transport is required.

The offeror represents that it anticipates a requirement for ocean transport of supplies, either at prime or subcontract level, in connection with their offer. The offeror recognizes the requirements of the clause entitled "Preference for Privately Owned US-Flag Commercial Vessels, Alt. I." The offeror represents that the offer submitted is based on 100% use of US-Flag commercial vessels by itself and its subcontractors and further, that it will fully comply with all requirements of the above-stated clause

(End of Provision)

III Open Contracts

A. Review of Open Contracts

1. All open contracts (that is, all contracts where final delivery has not occurred) awarded to foreign firms shall be reviewed and modified to incorporate the Clause at 52.247-64, Alt. I or II, if that clause has not been included.

2. All open contracts with domestic firms where the contracting officer has specific knowledge of foreign subcontracts shall be reviewed and modified to incorporate the clause at 5.247-64, Alt. I or II, if that clause has not been included.

3. All other open contracts with a total value of $1M or more shall be reviewed for applicability of the clause.

   (i) For the purpose of this one time review, the clause shall be considered applicable if it is known that any foreign subcontracts are involved. To assist in identifying contracts where foreign subcontracts may be involved, contracting offices should, at a minimum, consider any contract where the place of performance is outside the US; where the percent of foreign content is code B/A on the DD 350; or, where the Duty Free Entry Clause (FAR 52.225-10 or DAR 7-104.31/7-2003.49), is included in the contract.

   (ii) Each contract identified shall be further reviewed to determine if the appropriate clause (FAR 52.247-64 Alt. I or, in the event award was made prior to the implementation of FAR, DAR 7-104.19 (c)) has been included in the contract. In the event the appropriate clause has not been included and deliveries remain to be made against the contract, the contract shall be modified to incorporate the clause at FAR 52.247-64 Alt. I or II.

B. Incorporation of Clause

Where incorporation of the clause is necessary, an attempt should be made to add it on a bilateral, no cost basis. However, in the event the contractor refuses to accept a bilateral, no cost action, the contractor should be put on notice of the Government interpretation of the law, indicating that compliance will be required at no increase in cost.

IV Awareness

A. Pre-award Survey

The contracting officer shall alert the pre-award survey monitor to the fact that the clause at FAR 52.247-64, Alt. I or II, is included in the solicitation; indicate whether the contractor has representated that ocean shipment will or will not be required; and, request written verification of the contractor's awareness and understanding of the clause and its requirements.

B. Post-award Conference

Post-award conferences or post-award letters, if any (see FAR 42.503 and 42.504), shall highlight the specific requirements of FAR 52.247-64, Alt. I or II, if the clause is included in the contract.

C. Assignment Letter

In order to highlight those contracts where special attention should be directed to compliance with the Cargo Preference Clause, assignment letters to the ACO should specifically state that FAR 52.247-64, Alt. I or II, is included in the contract and further indicate whether the offeror has or has not represented that ocean shipment is anticipated.

UNITED STATES POSTAL SERVICE
Mail Processing Department
475 L'Enfant Plaza, SW
Washington, DC 20260-7100

November 4, 1988

Honorable Helen D. Bentley
Committee on Merchant Marine and Fisheries
U.S. House of Representatives
Washington, DC 20515-2002

Dear Congresswoman Bentley:

During my March 30, 1988 testimony before the House Subcommittee on Merchant Marine, Committee on Merchant Marine and Fisheries, concerning the mail cargo preference provisions in section 2 of H. R. 1088, you requested information on the scope of the responsibilities of my position and income level in comparison with individuals having comparable responsibilities within the Postal Administrations of the Philippines, Italy and Great Britain.

We wrote to the three administrations requesting information as to the salary and benefits of the individuals within each administration having comparable responsibility. Two administrations failed to respond to our request and the third administration declined to provide requested information.

Sincerely,

James E. Orlando, Director
Office of Transportation and
International Services

STATEMENT OF JOHN J. STOCKER, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE ON ODS REFORM, MARCH 30, 1988

Mr. Chairman, Members of the Subcommittee, I am John J. Stocker, President, Shipbuilders Council of America - the national trade association representing America's shipbuilders, ship repairers, and manufacturers of marine equipment. We represent 94 percent of the total shipbuilding and ship repair production workers in the United States. A membership list is attached.

I appreciate the opportunity to present the views of the Shipbuilders Council on several pieces of legislation (H.R. 1088, H.R. 2462, H.R. 3297, H.R. 3537, and H.R. 3804) to amend the Operating-differential Subsidy (ODS) Program authorized by the Merchant Marine Act of 1936. These measures are designed to address the sagging fortunes of the privately-owned, U.S.-flag operating community, especially the liner segment. Indeed, the liners are down to seven operators engaged in the foreign commerce of the United States.

The common thread of the legislation before us today is to grant subsidized U.S.-flag liner operators with permanent authority to build, convert, or acquire vessels in foreign shipyards. The resulting tonnage would be eligible for ODS. The legislation will also allow the immediate carriage of government-impelled cargoes subject to section 901 of the Merchant Marine Act of 1936. Only one bill, H.R. 3297, would not grant U.S.-flag liner operators, who receive subsidies, the authority to build abroad. Another feature of the legislation is to free subsidized liner operators from the existing trade route limitations and restrictions on providing unsubsidized service with U.S.-flag vessels in the international trade. These bills recognize that operators must have subsidy and flexibility to compete effectively in the international arena.

The Shipbuilders Council does not object to those portions of the legislation which provide subsidized liner operators with increased operating flexibility. Such flexibility is essential for them to survive in the current marketplace. However, we have been -- and remain -- unalterably opposed to the unrestricted build-foreign authority for subsidized U.S.-flag liner operators in the absence of a domestic shipbuilding program. For the most part, the legislation ignores the fact that shipbuilders need similar attitudes to support their efforts in the international arena. We also oppose the elimination of the three-year waiting period for foreign-built, U.S.-flag liner vessels to transport preference cargo. For years, the fortunes of the U.S.-flag fleet, including the liner operators, were tied to U.S. shipyards. However, the enactment of the Omnibus Budget Reconciliation Act in August 1981 severed this long-standing tie. Specifically, the Congress authorized (until September 30, 1983) an operator receiving or applying for ODS to construct, reconstruct, or acquire its vessels of over 5,000 dwt in foreign shipyards. This limited window was premised on the Secretary of Commerce (now Transportation) finding and certifying that such operator's application for Construction-differential Subsidy (CDS) would not be approved due to the unavailability of funds in the CDS account. The Reagan Administration has never sought funding for the CDS program. On the other hand, the Administration has never sought to explain how an unsubsidized industry, such as shipbuilding, competes in an international market where our competitors are subsidized.

Prior to the expiration of this temporary authority, the Maritime Administration approved the construction and the conversion of approximately 44 ships in foreign shipyards. The major beneficiary of the build-foreign authority was United States Lines. It executed a contract with Daewoo of South Korea to construct 12 jumbo non-self-sustaining containerships. Subsequently, the line went bankrupt and the assets, including the ECON ships, have been or are being sold at auction. In addition, Lykes Bros. Steamship Company and American President Lines together gained the authority to acquire six foreign-built ships pursuant to special authority contained in an amendment to the Continuing Resolution for FY 1984. The point is that simply acquiring the right to build foreign has not proven to be sufficient to provide financial success to the operating community. Yet, ODS reform has been frequently characterized as involving only the single issues of build-foreign authority. No one element, however, can assure U.S.-flag operators the success they need to survive into the future.

The Subcommittee on Merchant Marine knows the current status of the domestic shipbuilding industry. Mr. Chairman, you know that in the face of the greatest naval fleet buildup in peacetime, the industry has suffered a dramatic reduction in the number of shipyards and production workers employed in those shipyards. In October 1982, there were 110 shipyards in the United States employing 112,000 production workers. Today that number has dropped to 69 shipyards employing 80,000 production workers. Five shipyards have closed their gates and 5,000 production workers have lost their jobs since I appeared before this committee last year. This erosion in the shipbuilding industry has occurred in the space of five short years while the level of federal spending on Navy shipbuilding programs has been unprecedented. In November 1987, the last commercial ship under construction in the United States was delivered. Today, no new commercial ships are on order in a U.S. shipyard -- NONE.

Not only has the industry declined drastically, but also radical shifts have come in the type and composition of firms that build and repair ships. Shipbuilding is largely a fabrication process. A shipyard requires extensive capital plant for manufacturing, prime waterfront property, and, in these days of increasing technological complexity, a highly trained work force. When a shipyard closes, the physical space and skilled work force is lost -- and is irreplaceable. The shipbuilding and ship repair industry is essential to national security. The federal government must commit to supporting the shipbuilding industry. A number of programs of both near and long-term potentiel can and must be developed. In October 1987, the Commission on Merchant Marine and Defense issued its preliminary findings of fact and conclusions concerning the condition of America's maritime industries. The key finding is there is a "clear and growing danger" to our national security because of the deteriorating condition of our nation's maritime industries. According to the Commission, the total collapse of commercial ship construction has been a major factor in the decline of U.S. shipbuilding capability. Government construction alone (mostly Navy and concentrated in a small number of shipyards) is insufficient to maintain diversified shipbuilding and ship repair industries. Government construction alone is also insufficient to maintain the industrial supplier base which is critical to meet mobilization requirements in time of war or national emergency.

To address the crisis in all segments of the maritime industry, in January of this year, the Commission made seven recommendations ranging from ODS reform to the implementation of a national program for merchant ship construction in U.S. shipyards. The bottom line for the commissioners is that any ODS reform must be linked to a commercial ship construction program in the U.S. -- and that those recommendations must be enacted as a total package.

The Shipbuilders Council applauds the work of the Commission and supports its recommendations. We endorse all seven recommendations as a comprehensive package. Any legislation that attempts to address the concerns of the operating community without addressing the revitalization of the shipbuilding industry would be totally unacceptable for the country, as well as to the shipbuilding industry.

On April 17, at a hearing before the House Seapower Subcommittee, Congressman Bennett requested that the Commission on Merchant Marine and Defense translate its seven recommendations into legislative language. The Shipbuilders Council believes this is a necessary step. As we know all too well, problems often arise when broad general provisions contained in a policy document are written in precise statutory language and we will await the results of this process.

The Council does have a number of ideas concerning the linkage between a subsidized liner operator being permitted to build or acquire vessels abroad and a domestic shipbuilding program. In addition, we have some specific recommendations on the subject of the carriage of government and grant-impelled cargo which we would like to share with the members of the subcommittee.

The time has come for shipbuilders, operators, and unions to join together to forge a comprehensive approach to save America's maritime industry and our merchant marine. I fear for the future of our country-- almost totally surrounded by water -- that may soon lack the necessary capability to build, man, and operate a merchant marine -- the merchant marine which is vital to the transport of commercial and military cargo in time of both peace and conflict. As the Under Secretary of the Navy, H. Lawrence Garrett, III, has so clearly stated "...the invigoration of our commercial maritime industry is more than a Navy problem or a private sector problem. It is a national problem which must be addressed in the context of a national defense and economic strategy."

Before summarizing the major points of our proposal, I want to emphasize the magnitude of the compromise the shipbuilding industry is prepared to make in order to meet the legitimate needs of the operating community. The principal confrontation between the liner community and the shipyards in ODS reform is the ability for the liner operators to build their vessels in foreign shipyards, instead of the U.S. They argue that they cannot compete in the international market unless their capital construction costs are the same as their foreign competitors. We are prepared, however, to make this concession if it will result in the salvation of the industry and the preservation of our national security.

The Council's proposal entails three major parts - ODS reform; a procure and charter program for commercial ships built in the United States; and cargo. Our recommendations regarding these three elements are:

1) ODS Reform - the true objective of the ODS program should be to place the privately-owned, U.S.-flag liner fleet on an operating and asset parity with its foreign-flag competitors so that the fleet can effectively and efficiently compete for commercial cargo. Commercial cargo generation should be the primary goal of the U.S.-flag liner fleet and legal impediments to competing for such cargo should be eliminated. To achieve asset parity, the U.S.-flag liner operator will be allowed to build foreign and receive ODS in conjunction with a U.S. domestic shipbuilding program.

2) Procure and Charter - to implement the Commission's recommendation that an operator should have limited authority to build foreign in conjunction with a U.S. domestic shipbuilding program, a procure and charter program is essential. The program would call for the construction of at least 12 commercial, yet militarily-useful, ships per year over a ten-year period. These U.S.-built, U.S.-flag vessels will be primarily responsible for meeting critical strategic sealift requirements in time of emergency. No restrictions would be placed on where the ships could trade.

3) Cargo - as these commercial yet militarily-useful ships built under the procure and charter program join the fleet, they will be given priority preference to transport military and government-impelled cargo. After four years, foreign-built, U.S.-flag vessels will be prohibited from carrying such cargo.

The authority for U.S. operators to contract to build foreign would take effect only after a firm commercial construction contract has been signed in the U.S. For each ship built in a U.S. yard, an operator would have the authority to acquire a foreign-built vessel of similar displacement. This is not a strict one-for-one requirement that would be placed on a liner operator. On the contrary, an operator who constructs a vessel in a U.S. shipyard for the domestic trade would earn a build-foreign permission which it may sell or otherwise transfer to a liner operator.

To summarize, it is imperative that action be taken now. These legislative recommendations are essential to the survival of our industry. Embrace these initiatives so that more shipyards will not be forced into closure -- so that more jobs will not be lost -- and, so that the security of our nation will be preserved and protected.

This concludes my prepared statement. I would be happy to answer any questions you may have.

RECORD STATEMENT OF PAUL J. BURNSKY, PRESIDENT, METAL TRADES DEPARTMENT (AFL-CIO), BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE ON LEGISLATION TO REFORM THE OPERATING-DIFFERENTIAL SUBSIDY PROGRAM -- MARCH 30, 1988

Mr. Chairman, Members of the Subcommittee, my name is Paul J. Burnsky and I am President of the Metal Trades Department of the AFL-CIO. The Department is made up of 21 AFL-CIO union affiliates whose members are production workers in the major commercial shipyards, in U. S. Naval Shipyards, and in the Curtis Bay Yard of the U. S. Coast Guard. Our skilled shipyard craftsmen have a proud tradition of building America's merchant fleets and combatant Naval vessels in time of war and peace since the Department's founding in 1908.

We appreciate the opportunity to present these views on various bills before this subcommittee that would amend the Operating-differential Subsidy (ODS) program originally authorized in the Merchant Marine Act of 1936. Similar legislation has been considered by this subcommittee on other occasions during the past several years, particularly as they affect the liner portion of the privately-owned U.S. flag fleet operating in our American foreign commerce. It is unfortunate that the liner operators have not been able to reach a consensus as to the best legislative approach to their worsening economic situation.

Since our affiliates' membership is not engaged in sea-going employment, I will not address in any specific terms the provisions of the various bills as they would impact upon the interests of our merchant seamen. Instead, we would associate ourselves with the comments on ODS "reform" sections of the legislation presented earlier by those AFL-CIO unions directly affected.

On many occasions during the past seven years, the Metal Trades Department has presented its views to this subcommittee on our overall concerns about the continuing decline of the U. S. Merchant Marine and the dangerous erosion of the shipbuilding industrial base. We have protested here and at our National Shipbuilding Conferences and at our Conventions about the failure of the Reagan Administration to recommend to Congress a realistic and workable national shipbuilding and maritime policy. We have spoken out on many occasions against foolhardy policies of the Administration that would destroy our maritime and shipbuilding industries and place us at the mercy of foreign interests and endanger our national security. Details of how Administration policies have crippled these vital segments of our industrial base were presented last year at hearings by the Presidential Commission on Merchant Marine and Defense, as well as in previous submissions by the Department to this subcommittee. I will not repeat them here because you are well aware of the damaging effects such short-sighted policies with respect to the Construction-differential Subsidy (CDS) program, the Title XI loan guarentee program, opposition to a realistic cargo preference program, and its stubborn insistence on the total destruction of our U. S. shipbuilding industry that would result from approval of its "Buy Foreign" recommendations in earlier legislation.

Unfortunately, all but one of the so-called ODS reform bills being considered here would permit subsidized U.S.-flag liner operators to construct, acquire, or convert vessels in foreign shipyards. These ships would not only be eligible for ODS, but would also be eligible for immediate carriage of government-impelled cargoes. The Metal Trades Department restates its vigorous opposition to such permanent "Build Foreign" authority and the repeal of the present 3-year waiting period for foreign-built U. S.-flag vessels to carry preference cargoes. Early in 1981 and again in 1983, Congress provided a limited "window" for such foreign building authority with the assurance from the Administration that it would recommend to Congress a national maritime program to preserve our shipbuilding industrial base. MARAD approved the construction or conversion of some 44 vessels under this limited authority for foreign shipbuilding, further weakening American shipbuilding and supplier industries and costing thousands of American shipyard workers their jobs. Were it not for the Navy's expanded shipbuilding program, the toll would be even greater. As the subcommittee well knows, there is not now a single commercial merchant vessel being built today in any U. S. shipyard. Yet the American liner operating industry has continued to flounder in world competition with foreign-flag vessels despite the devasting impact of "temporary" build-foreign opportunities afforded them in the past.

Mr. Chairman, the hour is now late in the Reagan Administration and this year is the last opportunity the misguided "amateur mariners" will have to advance these idiotic proposals. We suggest that the subcommittee defer any further consideration of "ODS reform" legislation for this Congress and await what we hope will be a more enlightened new Administration in 1989 -- an Administration that will recognize the vital importance of strengthening our U. S. Merchant Marine and our domestic shipbuilding industry that are so closely linked to a strong national defense. We hope that the new Administration and the new Congress -- working together -- and bolstered by a series of positive recommendations by the Commission on Merchant Marine and Defense, will be able to reach an agreement on a realistic national shipbuilding and maritime program that will meet our nation's needs in the 1990's. Only in this way can we guarantee the survival of these critical industries so vital to our national defense and our freedom.

Thank you for the opportunity to present these views of the Metal Trades Department.

PRIVATELY OWNED OCEANGOING GENERAL CARGO SHIPS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	TEU	BILLETS LIC.	BILLETS UNLIC.	BILLETS TOTAL
AMERICAN VETERAN	530142	BARGE CARRIER (LASH)	C8-S-81B	INACTIVE	FOREIGN	STEAM TURBINE	1973		29,800	1,008	12	20	32
AUSTRAL RAINBOW	530141	BARGE CARRIER (LASH)	C8-S-81B	ACTIVE	MSC	STEAM TURBINE	1972		29,700	1,008	11	21	32
DELTA SUD	553105	BARGE CARRIER (LASH)	C9-S-81D	INACTIVE	FOREIGN	STEAM TURBINE	1973		40,572	288	12	20	32
GREEN HARBOUR	561453	BARGE CARRIER (LASH)	PRIVATE	ACTIVE	MSC	STEAM TURBINE	1974		46,100	288	10	17	27
GREEN ISLAND	562594	BARGE CARRIER (LASH)	PRIVATE	ACTIVE	MSC	STEAM TURBINE	1975		46,100	288	10	17	27
GREEN VALLEY	559623	BARGE CARRIER (LASH)	PRIVATE	ACTIVE	MSC	STEAM TURBINE	1974		46,100	288	10	17	27
ROBERT E LEE	557033	BARGE CARRIER (LASH)	C9-S-81D	ACTIVE	FOREIGN	STEAM TURBINE	1974		40,900	288	11	20	31
SAM HOUSTON	559035	BARGE CARRIER (LASH)	C9-S-81D	ACTIVE	FOREIGN	STEAM TURBINE	1974		40,900	288	11	20	31
STONEWALL JACKSON	557034	BARGE CARRIER (LASH)	C9-S-81D	ACTIVE	FOREIGN	STEAM TURBINE	1974		40,900	288	11	20	31
	9	BARGE CARRIER (LASH)							361,072	4,032	98	172	270
GREEN BAY		TBD CAR CARRIER	FRGN. COM.	INACTIVE	FOREIGN	DIESEL	1987		13,500	N/A	9	12	21
GREEN LAKE	907990	CAR CARRIER	FRGN. COM.	ACTIVE	FOREIGN	DIESEL	1987		10,500	N/A	9	12	21
MARINE RELIANCE	695664	CAR CARRIER	FRGN. COM.	ACTIVE	FOREIGN	DIESEL	1987		10,800	N/A	9	12	21
OVERSEAS JOYCE		TBD CAR CARRIER	FRGN. COM	ACTIVE	FOREIGN	DIESEL	1987		13,000	N/A	9	12	21
	4	CAR CARRIER							47,800	0	36	48	84
ADABELLE LYKES	668348	CONTAINER	C6-M-F147A	ACTIVE	FOREIGN	DIESEL	1969	1973	15,400	1,096	11	18	29
ALMERIA LYKES	512593	CONTAINER	C6-S-69C C	ACTIVE	FOREIGN	STEAM TURBINE	1968	1972	17,500	1,094	11	22	33
AMERICAN APOLLO	529004	CONTAINER	C7-S-68E	INACTIVE	FOREIGN	STEAM TURBINE	1970		20,000	1,364	12	27	39
AMERICAN AQUARIUS	530999	CONTAINER	C7-S-68E	INACTIVE	FOREIGN	STEAM TURBINE	1971		20,100	1,364	12	27	39
AMERICAN ASTRONAUT	520694	CONTAINER	C7-S-68E	INACTIVE	FOREIGN	STEAM TURBINE	1969		20,600	1,326	12	27	39
AMERICAN LANCER	514261	CONTAINER	C7-S-68C	INACTIVE	FOREIGN	STEAM TURBINE	1968		22,200	1,290	12	27	39
AMERICAN LYNX	517450	CONTAINER	C7-S-68D	INACTIVE	FOREIGN	STEAM TURBINE	1968		20,600	1,326	12	27	39
AMERICAN RESOLUTE	612715	CONTAINER	C5-S-73B	ACTIVE	FOREIGN	STEAM TURBINE	1980		16,200	1,070	10	19	29
ARGONAUT	601377	CONTAINER	C5-S-73B	ACTIVE	FOREIGN	STEAM TURBINE	1979		16,100	1,070	10	23	33
BORINQUEN	248239	CONTAINER	C4-S-A3 C	ACTIVE	DOMESTIC	STEAM TURBINE	1945	1966	17,000	1,169	11	22	33
CHARLOTTE LYKES	668349	CONTAINER	C6-M-F147A	ACTIVE	FOREIGN	DIESEL	1968	1973	19,300	1,104	11	18	29
CHESAPEAKE BAY	689194	CONTAINER	C6-M-F146A	ACTIVE	FOREIGN	DIESEL	1985		35,900	2,000	9	12	21
DELAWARE BAY	689193	CONTAINER	C6-M-F146A	ACTIVE	FOREIGN	DIESEL	1985		35,900	2,000	9	12	21
EXPORT FREEDOM	541414	CONTAINER	C5-S-73B	INACTIVE	FOREIGN	STEAM TURBINE	1972		16,300	1,070	10	23	33
EXPORT PATRIOT	548442	CONTAINER	C5-S-73B	ACTIVE	FOREIGN	STEAM TURBINE	1973		16,300	1,070	10	23	33
GALVESTON BAY (EX AMERICAN KENTUCKY)	665784	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1985		50,600	4,258	9	12	21
HOWELL LYKES	509581	CONTAINER	C6-S-69C C	ACTIVE	FOREIGN	STEAM TURBINE	1967	1972	17,500	1,094	11	22	33
KAUAI	621042	CONTAINER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1980		26,600	1,672	11	24	35
LONG BEACH	248240	CONTAINER	C4-S-A3 C	ACTIVE	DOMESTIC	STEAM TURBINE	1945	1966	17,000	1,066	11	25	36
MANUKAI	524219	CONTAINER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		27,100	1,488	11	24	35
MANULANI	528400	CONTAINER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		27,100	1,443	11	24	35
MARGARET LYKES	668347	CONTAINER	C6-M-F147A	ACTIVE	FOREIGN	DIESEL	1968	1973	15,400	1,096	11	18	29
MASON LYKES	513860	CONTAINER	C6-S-69C C	ACTIVE	FOREIGN	STEAM TURBINE	1968	1972	17,500	1,094	11	22	33
MAUI	591709	CONTAINER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1978		26,700	1,672	11	24	35
NEDLLOYD HOLLAND (EX AMERICAN NEW YORK)	665222	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1984		50,600	4,258	9	12	21
NEDLLOYD HOUSTON (EX AMERICAN NEBRASKA)	665785	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1985		50,600	4,258	9	12	21
NEWARK BAY (EX AMERICAN UTAH)	665789	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1985		50,500	4,258	9	12	21

(Source: Maritime Administration)

PRIVATELY OWNED OCEANGOING GENERAL CARGO SHIPS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988 (CONTINUED)

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	TEU	BILLETS LIC.	BILLETS UNLIC.	BILLETS TOTAL
OAKLAND	248076	CONTAINER	C4-S-A3-C	ACTIVE	DOMESTIC	STEAM TURBINE	1945	1966	17,000	1,066	11	25	36
PANAMA	248241	CONTAINER	C4-S-A3-C	ACTIVE	DOMESTIC	STEAM TURBINE	1945	1966	17,000	1,066	11	25	36
PRESIDENT ARTHUR	695901	CONTAINER	C9-M-F151A	ACTIVE	FOREIGN	DIESEL	1987		33,400	3,010	9	12	21
PRESIDENT BUCHANAN	697633	CONTAINER	C9-M-F151A	ACTIVE	FOREIGN	DIESEL	1987		33,400	3,010	9	12	21
PRESIDENT EISENHOWER	673003	CONTAINER	C9-M-148A	ACTIVE	FOREIGN	DIESEL	1980	1984	47,100	2,522	9	12	21
PRESIDENT F D ROOSEVELT	674310	CONTAINER	C9-M-148A	ACTIVE	FOREIGN	DIESEL	1980	1984	47,100	2,522	9	12	21
PRESIDENT GARFIELD	905624	CONTAINER	C9-M-F151A	ACTIVE	FOREIGN	DIESEL	1987		33,400	3,010	9	12	21
PRESIDENT GRANT	530138	CONTAINER	C8-S-81E	ACTIVE	FOREIGN	STEAM TURBINE	1971	1977	37,300	1,936	12	23	35
PRESIDENT HARDING	909326	CONTAINER	C9-M-F151A	ACTIVE	FOREIGN	DIESEL	1987		33,400	3,010	9	12	21
PRESIDENT HARRISON	530139	CONTAINER	C8-S-81E	ACTIVE	FOREIGN	STEAM TURBINE	1971	1977	29,700	1,930	12	23	35
PRESIDENT HOOVER	530137	CONTAINER	C8-S-81E	ACTIVE	FOREIGN	STEAM TURBINE	1971	1983	30,700	1,936	12	23	35
PRESIDENT JEFFERSON	544900	CONTAINER	C6-S-85B	ACTIVE	FOREIGN	STEAM TURBINE	1973		20,700	1,484	12	27	39
PRESIDENT JOHNSON	552109	CONTAINER	C6-S-85B	ACTIVE	FOREIGN	STEAM TURBINE	1974		20,700	1,484	12	27	39
PRESIDENT KENNEDY	296779	CONTAINER	C6-S-1XA C	ACTIVE	FOREIGN	STEAM TURBINE	1964	1972	19,200	1,124	12	27	39
PRESIDENT LINCOLN	651627	CONTAINER	C9-M-132B	ACTIVE	FOREIGN	DIESEL	1982		30,200	2,494	9	13	22
PRESIDENT MADISON	546725	CONTAINER	C6-S-85B	ACTIVE	FOREIGN	STEAM TURBINE	1973		20,700	1,484	12	27	39
PRESIDENT MONROE	655397	CONTAINER	C9-M-132B	ACTIVE	FOREIGN	DIESEL	1983		30,200	2,494	9	13	22
PRESIDENT PIERCE	552108	CONTAINER	C6-S-85B	ACTIVE	FOREIGN	STEAM TURBINE	1973		20,700	1,484	12	27	39
PRESIDENT TAFT	511653	CONTAINER	C6-S-69C C	ACTIVE	FOREIGN	STEAM TURBINE	1967	1972	17,500	1,094	11	24	35
PRESIDENT TYLER	530140	CONTAINER	C8-S-81E	ACTIVE	FOREIGN	STEAM TURBINE	1972	1983	30,800	1,936	12	23	35
PRESIDENT WASHINGTON	653424	CONTAINER	C9-M-132B	ACTIVE	FOREIGN	DIESEL	1982		30,200	2,494	9	13	22
RALEIGH BAY (EX AMERICAN NEW JERSEY)	665223	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1984		50,600	4,250	9	12	21
SAN JUAN	516542	CONTAINER	C4-S-A1 C	ACTIVE	DOMESTIC	STEAM TURBINE	1945	1969	17,900	1,169	11	22	33
SEA-LAND ACHIEVER (EX AMERICAN ALABAMA)	665782	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1984		50,600	4,250	9	12	21
SEA-LAND ADVENTURER	594073	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1963	1978	15,300	1,190	9	12	21
SEA-LAND ANCHORAGE	901306	CONTAINER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1987		20,700	1,400	9	12	21
SEA-LAND ATLANTIC (EX AMERICAN OKLAHOMA)	665786	CONTAINER	C9-M-F141A	ACTIVE	FOREIGN	DIESEL	1985		50,900	4,250	9	12	21
SEA-LAND COMMITMENT (EX AMER. CALIFORNIA)	665788	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1985		50,500	4,250	9	12	21
SEA-LAND CONSUMER	552818	CONTAINER	C7-S-88A	ACTIVE	FOREIGN	STEAM TURBINE	1973		26,600	1,328	12	26	38
SEA-LAND DEFENDER	604246	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,800	2,472	9	12	21
SEA-LAND DEVELOPER	604247	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,800	2,472	9	12	21
SEA-LAND ECONOMY	532410	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	STEAM TURBINE	1971		25,300	1,328	12	26	38
SEA-LAND ENDURANCE	606062	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,800	2,472	9	12	21
SEA-LAND ENTERPRISE	623168	CONTAINER	C8-S-85D	ACTIVE	FOREIGN	STEAM TURBINE	1980	1983	30,500	1,708	11	15	26
SEA-LAND EXPLORER	604248	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,800	2,472	9	12	21
SEA-LAND EXPRESS	604249	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,900	2,472	9	12	21
SEA-LAND FREEDOM	606065	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,800	2,472	9	12	21
SEA-LAND HAWAII	547288	CONTAINER	C6-S-85A	ACTIVE	FOREIGN	STEAM TURBINE	1973		19,500	1,356	11	15	26
SEA-LAND INDEPENDENCE	606061	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,800	2,472	9	12	21
SEA-LAND INNOVATOR	606064	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,900	2,472	9	12	21
SEA-LAND INTEGRITY (EX AMERICAN VIRGINIA)	665783	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1984		50,600	4,250	9	12	21
SEA-LAND KODIAK	TBD	CONTAINER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1987		20,700	1,400	9	12	21
SEA-LAND LARK	518444	CONTAINER	C7-S-68D	INACTIVE	FOREIGN	STEAM TURBINE	1969		20,600	1,326	11	15	26
SEA-LAND LEADER	594374	CONTAINER	FRGN. CON.	INACTIVE	FOREIGN	DIESEL	1962	1978	15,200	1,190	9	12	21
SEA-LAND LEGION	515155	CONTAINER	C7-S-68C	INACTIVE	FOREIGN	STEAM TURBINE	1968		22,100	1,290	11	15	26
SEA-LAND LIBERATOR	604245	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,800	2,472	9	12	21
SEA-LAND LIBERTY	516464	CONTAINER	C7-S-68D	INACTIVE	FOREIGN	STEAM TURBINE	1968		21,700	1,326	11	15	26
SEA-LAND MARINER	606066	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,900	2,472	9	12	21
SEA-LAND MARKETER	544303	CONTAINER	C6-S-85A	ACTIVE	FOREIGN	STEAM TURBINE	1973		19,500	1,356	11	15	26
SEA-LAND NAVIGATOR	541868	CONTAINER	C8-S-85C	ACTIVE	FOREIGN	STEAM TURBINE	1972	1984	31,000	1,712	11	15	26

PRIVATELY OWNED OCEANGOING GENERAL CARGO SHIPS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988 (CONTINUED)

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	TEU	BILLETS		
											LIC.	UNLIC.	TOTAL
SEA-LAND PACER	593980	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1962	1970	15,200	1,190	9	12	21
SEA-LAND PACIFIC	612085	CONTAINER	C8-S-85D	INACTIVE	FOREIGN	STEAM TURBINE	1979	1983	30,400	1,708	11	15	26
SEA-LAND PATRIOT	604244	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,700	2,472	9	12	21
SEA-LAND PERFORMANCE (EX AMER. WASHINGTON)	665790	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1985		58,600	4,258	9	12	21
SEA-LAND PIONEER	594375	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1963	1970	15,300	1,190	9	12	21
SEA-LAND PRODUCER	552819	CONTAINER	C7-S-88A	ACTIVE	FOREIGN	STEAM TURBINE	1974		26,600	1,328	12	26	38
SEA-LAND QUALITY (EX AMERICAN ILLINOIS)	665787	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1985		58,600	4,258	9	12	21
SEA-LAND TACOMA	910307	CONTAINER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1987		20,700	1,400	9	12	21
SEA-LAND TRADER	552706	CONTAINER	C8-S-85C	ACTIVE	FOREIGN	STEAM TURBINE	1973	1983	31,000	1,712	11	15	26
SEA-LAND VALUE (EX AMERICAN MAINE)	665781	CONTAINER	C9-M-F141A	INACTIVE	FOREIGN	DIESEL	1984		58,600	4,258	9	12	21
SEA-LAND VENTURE	531478	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	STEAM TURBINE	1970		25,500	1,328	12	26	38
SEA-LAND VOYAGER	606063	CONTAINER	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980	1985	29,900	2,472	9	12	21
SHELDON LYKES	648350	CONTAINER	C6-M-F147A	ACTIVE	FOREIGN	DIESEL	1969	1973	15,400	1,104	11	18	29
	90		—						2,648,600	103,427	920	1,573	2,493
MAUNALEI	246343	CONTAINER/CAR	C4-S-82-C	ACTIVE	DOMESTIC	STEAM TURBINE	1944	1965	17,900	959	10	24	34
	1	CONTAINER/CAR							17,900	959	10	24	34
LURLINE	549900	CONTAINER/RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1973	1982	22,000	1,266	10	22	32
MATSONIA	553090	CONTAINER/RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1973	1987	22,000	1,266	12	25	37
SEA FOX	679514	CONTAINER/RO RO	C6-M-F145A	ACTIVE	FOREIGN	DIESEL	1985		24,200	1,936	9	13	22
SEA LION	687321	CONTAINER/RO RO	C6-M-F145A	ACTIVE	FOREIGN	DIESEL	1985		24,200	1,936	9	13	22
SEA WOLF	676163	CONTAINER/RO RO	C6-M-F145A	ACTIVE	FOREIGN	DIESEL	1984		24,200	1,936	9	13	22
	5	CONTAINER/RO RO							116,600	8,340	49	86	135
DAWN	291781	FREIGHTER	C4-S-58A	ACTIVE	MSC	STEAM TURBINE	1963		12,700	N/A	10	22	32
ELIZABETH LYKES	500702	FREIGHTER	C4-S-66A	ACTIVE	MSC	STEAM TURBINE	1966		14,700	N/A	11	23	34
GALVESTON BAY	504077	FREIGHTER	C4-S-66A	ACTIVE	FOREIGN	STEAM TURBINE	1966		14,700	N/A	10	17	27
GENEVIEVE LYKES	513140	FREIGHTER	C4-S-66A	ACTIVE	FOREIGN	STEAM TURBINE	1968		14,700	N/A	11	23	34
ISLAND HOPE	627433	FREIGHTER	C1-M-122A	INACTIVE	FOREIGN	DIESEL	1980		2,200	N/A	6.	5	11
ISLAND MARIANA	610290	FREIGHTER	C1-M-122A	ACTIVE	FOREIGN	DIESEL	1979		2,000	N/A	5	8	13
LETITIA LYKES	512187	FREIGHTER	C4-S-66A	ACTIVE	MSC	STEAM TURBINE	1968		14,700	N/A	11	23	34
LOUISE LYKES	299938	FREIGHTER	C4-S-66A	ACTIVE	MSC	STEAM TURBINE	1965		14,700	N/A	11	23	34
RAINBOW HOPE	622178	FREIGHTER	C1-M-122A	ACTIVE	MSC	DIESEL	1980		2,000	N/A	5	6	11
RESOLUTE	642140	FREIGHTER	C1-M-AV1	INACTIVE	FOREIGN	DIESEL	1944		6,000	N/A	9	10	19
RUTH LYKES	502928	FREIGHTER	C4-S-66A	ACTIVE	FOREIGN	STEAM TURBINE	1966		13,800	N/A	11	23	34
TAMPA BAY	504982	FREIGHTER	C4-S-66A	ACTIVE	FOREIGN	STEAM TURBINE	1966		14,700	N/A	10	17	27
TRANSCOLUMBIA	248702	FREIGHTER	C4-S-A3 C	INACTIVE	FOREIGN	STEAM TURBINE	1945	1968	11,200	N/A	12	27	39
	13	FREIGHTER							138,100	0	122	227	349

PRIVATELY OWNED OCEANGOING GENERAL CARGO SHIPS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988 (CONTINUED)

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	TEU	BILLETS LIC.	BILLETS UNLIC.	BILLETS TOTAL
ALLISON LYKES	296216	PARTIAL CONTAINER	C6-S-60B	ACTIVE	FOREIGN	STEAM TURBINE	1964	1982	15,900	521	11	23	34
AMERICAN [illegible]	519937	PARTIAL CONTAINER	C4-S-69B	INACTIVE	FOREIGN	STEAM TURBINE	1969		13,100	805	11	23	34
AMERICAN RESERVIST	296947	PARTIAL CONTAINER	C6-S-60B	INACTIVE	FOREIGN	STEAM TURBINE	1964	1982	15,200	521	12	26	38
AMERICAN SPITFIRE	518434	PARTIAL CONTAINER	C4-S-69B	INACTIVE	FOREIGN	STEAM TURBINE	1969		13,100	805	11	23	34
AMERICAN TITAN	515976	PARTIAL CONTAINER	C4-S-69B	INACTIVE	FOREIGN	STEAM TURBINE	1968		13,100	805	11	23	34
AMERICAN TROJAN	517617	PARTIAL CONTAINER	C4-S-69B	ACTIVE	MSC	STEAM TURBINE	1969		13,100	805	12	22	34
ASHLEY LYKES	292191	PARTIAL CONTAINER	C5-S-37F C	ACTIVE	FOREIGN	STEAM TURBINE	1963	1973	14,300	246	11	25	36
EXPORT CHALLENGER	292227	PARTIAL CONTAINER	C3-S-46B	INACTIVE	FOREIGN	STEAM TURBINE	1963		12,500	439	11	27	38
EXPORT CHAMPION	292669	PARTIAL CONTAINER	C3-S-46B	ACTIVE	FOREIGN	STEAM TURBINE	1963		12,500	439	11	27	38
GREEN WAVE	677648	PARTIAL CONTAINER	FRGN. CON.	ACTIVE	MSC	DIESEL	1980	1984	13,100	543	9	12	21
JAMES LYKES	280564	PARTIAL CONTAINER	C5-S-37E C	ACTIVE	FOREIGN	STEAM TURBINE	1960	1972	14,300	246	11	25	36
JEAN LYKES	287103	PARTIAL CONTAINER	C5-S-37E C	ACTIVE	FOREIGN	STEAM TURBINE	1961	1972	14,300	246	11	25	36
JOHN LYKES	282772	PARTIAL CONTAINER	C5-S-37E C	ACTIVE	FOREIGN	STEAM TURBINE	1960	1972	14,300	246	11	25	36
JOSEPH LYKES	281326	PARTIAL CONTAINER	C5-S-37E C	ACTIVE	FOREIGN	STEAM TURBINE	1960	1971	14,300	246	11	25	36
LESLIE LYKES	287416	PARTIAL CONTAINER	C5-S-37E C	ACTIVE	FOREIGN	STEAM TURBINE	1962	1972	14,300	246	11	25	36
MALLORY LYKES	296632	PARTIAL CONTAINER	C6-S-60B	ACTIVE	FOREIGN	STEAM TURBINE	1964	1981	15,900	521	11	23	34
MARJORIE LYKES	[illegible]	PARTIAL CONTAINER	C5-S-37F C	ACTIVE	FOREIGN	STEAM TURBINE	1962	1973	14,300	246	11	25	36
NANCY LYKES	286650	PARTIAL CONTAINER	C5-S-37E C	ACTIVE	FOREIGN	STEAM TURBINE	1961	1971	14,300	246	11	25	36
PRESIDENT ADAMS	517120	PARTIAL CONTAINER	C5-S-75A	INACTIVE	FOREIGN	STEAM TURBINE	1968		22,200	490	12	28	40
PRESIDENT CLEVELAND	521866	PARTIAL CONTAINER	C5-S-75A	ACTIVE	FOREIGN	STEAM TURBINE	1969		22,300	490	12	28	40
PRESIDENT JACKSON	517717	PARTIAL CONTAINER	C5-S-75A	INACTIVE	FOREIGN	STEAM TURBINE	1968		22,200	490	12	28	40
PRESIDENT TAYLOR	518517	PARTIAL CONTAINER	C5-S-75A	ACTIVE	FOREIGN	STEAM TURBINE	1969		22,300	490	12	28	40
SANTA ADELA	504015	PARTIAL CONTAINER	C4-S-64B	ACTIVE	MSC	STEAM TURBINE	1966		14,000	166	10	17	27
SANTA JUANA	502726	PARTIAL CONTAINER	C4-S-64B	ACTIVE	MSC	STEAM TURBINE	1966		14,000	166	11	17	28
STELLA LYKES	297384	PARTIAL CONTAINER	C6-S-60B	ACTIVE	FOREIGN	STEAM TURBINE	1965	1983	15,900	521	11	23	34
SUE LYKES	520392	PARTIAL CONTAINER	C5-S-75A	ACTIVE	FOREIGN	STEAM TURBINE	1969		22,300	490	11	23	34
THOMPSON LYKES	283413	PARTIAL CONTAINER	C5-S-37E C	ACTIVE	FOREIGN	STEAM TURBINE	1960	1971	14,300	246	11	25	36
ZOELLA LYKES	282126	PARTIAL CONTAINER	C5-S-37E C	ACTIVE	FOREIGN	STEAM TURBINE	1960	1971	14,300	246	11	25	36
28		PARTIAL CONTAINER							435,700	11,967	311	671	982
AMBASSADOR	625498	RO RO	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1980		9,000	312	9	13	22
AMERICAN CONDOR	676864	RO RO	FRGN. CON.	INACTIVE	FOREIGN	DIESEL	1981		20,700	NA	8	12	20
AMERICAN EAGLE	650479	RO RO	FRGN. CON.	ACTIVE	MSC	DIESEL	1981		20,700	1,050	8	12	20
AMERICAN FALCON	697393	RO RO	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1981		20,500	NA	8	12	20
ATLANTIC SPIRIT	573223	RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1976		16,100	560	11	19	30
BAYAMON	530007	RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		14,200	490	11	19	30
CAGUAS	557149	RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1974	1976	16,100	560	11	19	30
CYGNUS	632750	RO RO	FRGN. CON.	INACTIVE	FOREIGN	DIESEL	1977	1981	14,900	994	10	18	28
DOCK EXPRESS TEXAS	666669	RO RO	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1976		2,800	NA	7	4	11
FORTALEZA	544797	RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1972		14,000	490	11	19	30
GREAT LAND	567835	RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1975		16,100	779	9	20	29
LYRA	632749	RO RO	FRGN. CON.	INACTIVE	FOREIGN	DIESEL	1977		14,600	713	10	18	28
MERCURY	581745	RO RO	C7-S-95A	ACTIVE	MSC	STEAM TURBINE	1977		19,200	828	10	21	31
PONCE	512975	RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1968	1981	18,400	779	11	19	30
PUERTO RICO	561732	RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1975		14,100	560	11	19	30
ROVER	519102	RO RO	C5-S-78A	ACTIVE	MSC	STEAM TURBINE	1969		15,700	758	11	23	34
SENATOR	639987	RO RO	FRGN. CON.	ACTIVE	FOREIGN	DIESEL	1981		9,000	312	9	13	22
WESTWARD VENTURE	581673	RO RO	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1977		17,900	778	9	20	29
18		RO RO							274,000	9,963	171	300	474

PRIVATELY OWNED OCEANGOING GENERAL CARGO SHIPS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988 (CONTINUED)

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	TEU	BILLETS LIC.	BILLETS UNLIC.	BILLETS TOTAL
1ST LT ALEXANDER BONNYMAN	680897	RO RO (MPS)	T-AKX	ACTIVE	MSC	DIESEL	1980	1985	23,100	NA	10	15	25
1ST LT BALDOMERO LOPEZ	678108	RO RO (MPS)	T-AKX	ACTIVE	MSC	DIESEL	1985		26,500	NA	9	21	30
1ST LT JACK LUMMUS	678109	RO RO (MPS)	T-AKX	ACTIVE	MSC	DIESEL	1986		26,500	NA	9	21	30
2ND LT JOHN P BOBO	678106	RO RO (MPS)	T-AKX	ACTIVE	MSC	DIESEL	1985		26,500	NA	9	21	30
CPL LOUIS J HAUGE JR	672969	RO RO (MPS)	T-AKX C	ACTIVE	MSC	DIESEL	1979	1984	20,700	NA	10	16	26
MAJ STEPHAN W PLESS	655332	RO RO (MPS)	C7-S-133A	ACTIVE	MSC	STEAM TURBINE	1983	1985	25,000	1,512	9	20	29
PFC DEWAYNE T WILLIAMS	678107	RO RO (MPS)	T-AKX	ACTIVE	MSC	DIESEL	1985		26,500	NA	9	21	30
PFC EUGENE A OBREGON	641084	RO RO (MPS)	C7-S-133A	ACTIVE	MSC	STEAM TURBINE	1983	1985	25,100	1,512	9	20	29
PFC JAMES ANDERSON JR	679513	RO RO (MPS)	FRGN. CON.	ACTIVE	MSC	DIESEL	1979	1985	23,100	850	10	15	25
PFC WILLIAM B BAUGH	674269	RO RO (MPS)	T-AKX	ACTIVE	MSC	DIESEL	1979	1985	22,700	850	10	15	25
PVT HARRY FISHER	684591	RO RO (MPS)	T-AKX C	ACTIVE	MSC	DIESEL	1980	1985	23,100	NA	10	15	25
SGT MATEJ KOCAK	641083	RO RO (MPS)	C7-S-133A	ACTIVE	MSC	STEAM TURBINE	1983	1984	24,100	1,512	9	20	29
SGT WILLIAM R BUTTON	678110	RO RO (MPS)	T-AKX	ACTIVE	MSC	DIESEL	1986		26,500	NA	9	21	30
	13	RO RO (MPS)							319,400	6,236	122	241	363
	181	GENERAL CARGO							4,359,172	224,924	1,842	3,342	5,184

NOTE: LIST EXCLUDES SIX SEA-LAND CONTAINERSHIPS THAT HAVE BEEN SOLD TO A TAIWANESE BREAKER AND WERE OFFICIALLY RETIRED ON JANUARY 6, 1988. INFORMED SOURCES AT SEA-LAND INDICATE THE VESSELS WERE SCRAPPED BEFORE MARCH 31, 1988.

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PRIVATELY OWNED OCEANGOING TANKERS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	BBL'S	BILLETS		
											LIC.	UNLIC.	TOTAL
ALASKAN	512506	CHEMICAL	C4-S-82 C	INACTIVE	DOMESTIC	STEAM TURBINE	1944	1969	24,400	170,000	11	24	35
CHEMICAL PIONEER	661060	CHEMICAL	C5-S-73B C	ACTIVE	DOMESTIC	STEAM TURBINE	1968	1983	35,000	250,000	11	17	28
CHILBAR	634540	CHEMICAL	T5-S-41A	ACTIVE	DOMESTIC	STEAM TURBINE	1959	1981	33,700	255,000	11	18	29
EDGAR M QUEENY	520567	CHEMICAL	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		37,100	289,000	11	18	29
MARINE CHEMIST	529399	CHEMICAL	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		35,900	277,000	11	20	31
OMI DYNACHEM	638099	CHEMICAL	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1981		49,500	361,000	9	13	22
OMI HUDSON	642151	PRODUCT	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1981		42,000	361,000	9	13	22
SEA VENTURE	659954	CHEMICAL	FOR'N CON	ACTIVE	DOMESTIC	DIESEL	1972	1983	14,900	135,000	9	11	20
	8	CHEMICAL							272,500	2,098,000	82	134	216
A H DUMONT	239224	COASTAL	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1940	1972	1,500	10,000	4	3	7
BONNIE D	272746	COASTAL	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1956		2,000	20,000	4	3	7
BRAVADO	676454	COASTAL	FOR'N CON	ACTIVE	MSC	DIESEL	1977	1984	4,300	30,000	7	4	11
CHRISTIAN F REINAUER	252788	COASTAL	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1947		1,900	15,000	4	4	8
EASTERN SUN	679193	COASTAL	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1985		3,400	25,700	4	4	8
FRANCIS S BUSHEY	269146	COASTAL	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1955		2,700	21,000	4	4	8
NORTHERN SUN	630496	COASTAL	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1981		2,800	25,000	4	4	8
	7	COASTAL							18,600	146,700	31	26	57
BALTIMORE/BALTIMORE	654191	LIQUID ITB	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1983		48,000	350,000	8	8	16
CAROLE G INGRAM/IOS 3302	538087	LIQUID ITB	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1972		36,600	294,000	6	8	14
ENERGY ALTAIR/ENERGY ANNO	653464	LIQUID ITB	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1982		16,000	125,000	3	4	7
ESTHER MORAN/TEXAS	292910	LIQUID ITB	PRIVATE	ACTIVE	DOMESTIC	DIESEL ELECTRIC	1963	1969	18,000	130,000	5	4	9
FRANCES HAMMER/OXY4103	638765	LIQUID ITB	I86-MT-130A	ACTIVE	FOREIGN	DIESEL	1981	1982	41,000	300,000	8	9	17
GROTON/GROTON	647320	LIQUID ITB	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1982		48,000	350,000	8	8	16
JACKSONVILLE/JACKSONVILLE	631707	LIQUID ITB	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1982		48,000	350,000	8	8	16
JULIUS HAMMER/OXY 4101	631332	LIQUID ITB	I86-MT-130A	ACTIVE	FOREIGN	DIESEL	1981	1982	41,000	300,000	8	9	17
MARTHA R INGRAM/IOS 3301	533104	LIQUID ITB	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1971		36,600	270,000	6	8	14
MOBILE/MOBILE	654193	LIQUID ITB	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1984		47,600	350,000	8	8	16
NEW YORK/NEW YORK	648935	LIQUID ITB	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1983		48,000	350,000	8	8	16
PHILADELPHIA/PHILADELPHIA	654192	LIQUID ITB	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1984		47,600	350,000	8	8	16
SEABULK CHALLENGER/STL390	560209	LIQUID ITB	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1975		41,800	320,000	8	8	16
SEABULK MAGNACHEM/SCC3902	580102	LIQUID ITB	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1977		42,000	320,000	8	9	17
	14	LIQUID ITB							560,200	4,159,000	100	107	207
LAKE CHARLES	619531	LNG	LGB-S-102A	INACTIVE	FOREIGN	STEAM TURBINE	1980		71,400	771,000	11	19	30
LNG AQUARIUS	582506	LNG	LGB-S-102A	ACTIVE	FOREIGN	STEAM TURBINE	1977		71,500	771,000	12	19	31
LNG ARIES	588005	LNG	LGB-S-102A	ACTIVE	FOREIGN	STEAM TURBINE	1977		71,400	771,000	12	19	31
LNG CAPRICORN	588006	LNG	LGB-S-102A	ACTIVE	FOREIGN	STEAM TURBINE	1978		71,400	771,000	12	19	31
LNG GEMINI	595752	LNG	PRIVATE	ACTIVE	FOREIGN	STEAM TURBINE	1978		71,400	771,000	12	19	31
LNG LEO	595753	LNG	PRIVATE	ACTIVE	FOREIGN	STEAM TURBINE	1978		71,400	771,000	12	19	31

(Source: Maritime Administration)

PRIVATELY OWNED OCEANGOING TANKERS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988 (CONTINUED)

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	BBL'S	BILLETS		
											LIC.	UNLIC.	TOTAL
LNG LIBRA	595756	LNG	PRIVATE	ACTIVE	FOREIGN	STEAM TURBINE	1979		71,500	771,000	12	19	31
LNG TAURUS	595754	LNG	PRIVATE	ACTIVE	FOREIGN	STEAM TURBINE	1979		71,500	771,000	12	19	31
LNG VIRGO	595755	LNG	PRIVATE	ACTIVE	FOREIGN	STEAM TURBINE	1979		71,500	771,000	12	19	31
LOUISIANA	619532	LNG	LGB-S-102A	INACTIVE	FOREIGN	STEAM TURBINE	1980		71,400	771,000	13	20	33
	10	LNG							714,400	7,710,000	120	191	311
CORNUCOPIA	590414	LPG	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1958	1978	23,700	250,000	9	14	23
GAS KING	*	LPG	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1979		46,000	NA	2	0	2
GAS PRINCE	*	LPG	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1979		46,000	NA	2	0	2
GAS PRINCESS	*	LPG	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1979		46,000	NA	2	C	2
GAS QUEEN	*	LPG	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1979		46,000	NA	2	0	2
	5	LPG							207,700	250,000	17	14	31
ADMIRALTY BAY	533270	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1971		80,600	[illegible]	11	18	29
ADONIS	653691	PETROLEUM TANKER	FOR'N CON	ACTIVE	DOMESTIC	DIESEL	1966	1983	80,200	500,000	9	18	27
AMERICA SUN	523046	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1969		80,700	595,000	9	19	28
AMERICAN HERITAGE	577343	PETROLEUM TANKER	T8-S-100B	ACTIVE	FOREIGN	STEAM TURBINE	1976	1981	91,800	663,000	9	17	26
ARCO ALASKA	614544	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1979		188,400	1,322,000	9	18	27
ARCO ANCHORAGE	548424	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1973		120,600	831,000	9	18	27
ARCO CALIFORNIA	623291	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1980		188,700	1,322,000	9	18	27
ARCO FAIRBANKS	559400	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1974		120,600	831,000	9	18	27
ARCO INDEPENDENCE	[illegible]	PETROLEUM TANKER	T10-S-[illegible]	ACTIVE	DOMESTIC	STEAM TURBINE	1977	1982	262,400	1,950,000	9	18	27
ARCO JUNEAU	556666	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1974		120,600	831,000	9	18	27
ARCO PRUDHOE BAY	536496	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1971		70,430	550,000	9	18	27
ARCO SAG RIVER	539313	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1972		70,400	550,000	9	18	27
ARCO SPIRIT	580245	PETROLEUM TANKER	T10-S-101B	ACTIVE	DOMESTIC	STEAM TURBINE	1977	1982	262,400	1,950,000	9	18	27
ARCO TEXAS	549197	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1973	1981	90,000	550,000	9	18	27
ASPEN	535357	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1971		80,600	598,000	11	18	29
ATIGUN PASS	586128	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1977		173,400	1,190,000	9	17	26
B T ALASKA	590208	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1978		188,100	1,322,000	11	17	28
B T SAN DIEGO	[illegible]	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1978		188,100	1,322,000	11	17	28
BALTIMORE TRADER	270179	PETROLEUM TANKER	PRIVATE J	ACTIVE	DOMESTIC	STEAM TURBINE	1955	1971	57,900	490,000	9	18	27
BAY RIDGE	600128	PETROLEUM TANKER	T10-S-92A	ACTIVE	DOMESTIC	STEAM TURBINE	1979		225,000	1,900,000	10	18	28
BEAVER STATE	572359	PETROLEUM TANKER	T8-S-100B	ACTIVE	FOREIGN	STEAM TURBINE	1976	1980	91,800	677,000	9	17	26
BLUE RIDGE	633428	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1981		42,300	300,000	9	12	21
BRIDGETOWN	*	PETROLEUM TANKER	FOR'N CON	ACTIVE	FOREIGN	STEAM TURBINE	1983		395,000	2,993,000	2	0	2
BROOKLYN	553640	PETROLEUM TANKER	T10-S-92A	ACTIVE	DOMESTIC	STEAM TURBINE	1973		226,200	1,655,000	9	17	26
BROOKS RANGE	586130	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1978		173,400	1,190,000	10	18	28
CHARLES	283424	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1960		29,200	250,000	9	19	28
CHARLESTON	626561	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1956	1980	39,400	154,000	9	15	24
CHELSEA	[illegible]	PETROLEUM TANKER	T6-S-93A	ACTIVE	FOREIGN	STEAM TURBINE	1975	1983	39,700	270,000	9	16	25
CHERRY VALLEY	557503	PETROLEUM TANKER	T6-S-93A	ACTIVE	FOREIGN	STEAM TURBINE	1974	1983	39,700	259,000	9	16	25
CHESAPEAKE CITY	*	PETROLEUM TANKER	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1981		78,738	633,000	2	0	2
CHESAPEAKE TRADER	650468	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1982		50,100	356,000	9	12	21
CHESTNUT HILL	577738	PETROLEUM TANKER	T8-S-100B	ACTIVE	FOREIGN	STEAM TURBINE	1976	1981	91,300	676,000	9	16	25
CHEVRON ARIZONA	588320	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	GAS TURBINE	1977		34,500	270,000	8	8	16

PRIVATELY OWNED OCEANGOING TANKERS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988 (CONTINUED)

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	BBL'S	BILLETS LIC.	BILLETS UNLIC.	BILLETS TOTAL
CHEVRON CALIFORNIA	541563	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1972		70,200	548,000	9	15	24
CHEVRON COLORADO	577358	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	GAS TURBINE	1976		34,500	270,000	8	8	16
CHEVRON LOUISIANA	584696	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	GAS TURBINE	1977		39,500	270,000	8	8	16
CHEVRON MISSISSIPPI	542858	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1972		70,200	548,000	9	15	24
CHEVRON OREGON	566080	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	GAS TURBINE	1975		40,100	269,000	8	8	16
CHEVRON WASHINGTON	570709	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	GAS TURBINE	1976		39,600	270,000	8	8	16
COAST RANGE	638709	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1981		40,000	301,000	9	12	21
COASTAL MANATEE	287186	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1961		38,800	250,000	9	17	26
COLORADO	245104	PETROLEUM TANKER	T2-SE-A1 J	ACTIVE	DOMESTIC	TURBO ELECTRIC	1944	1972	30,400	266,000	9	16	25
CONCHO	247640	PETROLEUM TANKER	T2-SE-A1 J	ACTIVE	DOMESTIC	TURBO ELECTRIC	1945	1970	32,700	280,000	9	16	25
COPPER MOUNTAIN	640448	PETROLEUM TANKER	FOR'N CON	INACTIVE	DOMESTIC	DIESEL	1964	1981	86,900	535,000	10	19	29
CORONADO	553623	PETROLEUM TANKER	T6-S-93A	ACTIVE	FOREIGN	STEAM TURBINE	1973	1983	39,700	270,000	9	16	25
COURIER	578746	PETROLEUM TANKER	T6-M-98A	ACTIVE	MSC	DIESEL	1977		35,100	308,000	9	16	25
COVE LEADER	279938	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1959		67,400	469,000	10	16	26
COVE LIBERTY	644295	PETROLEUM TANKER	FOR'N CON	ACTIVE	DOMESTIC	STEAM TURBINE	1954	1983	69,300	506,000	10	16	26
COVE TRADER	279438	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1959		46,400	395,000	10	16	26
DELAWARE TRADER	652547	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1982		50,100	356,000	9	12	21
EXXON BALTIMORE	282272	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1960		51,100	409,000	10	14	24
EXXON BATON ROUGE	524619	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		75,600	637,000	9	12	21
EXXON BAYTOWN	658495	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1984		57,700	459,000	9	12	21
EXXON BENICIA	600478	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1979		172,800	1,190,000	9	13	22
EXXON BOSTON	283784	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1960		48,900	409,000	10	14	24
EXXON CHARLESTON	658493	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1983		40,200	325,000	10	13	23
EXXON GALVESTON	588443	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1970	1978	27,300	194,000	7	11	18
EXXON HOUSTON	297151	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1964		67,900	510,000	9	14	23
EXXON JAMESTOWN	275519	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1957		37,700	240,000	10	14	24
EXXON LEXINGTON	276270	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1958		39,100	311,000	10	14	24
EXXON LONG BEACH	692967	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1987		209,200	1,485,000	9	12	21
EXXON NEW ORLEANS	298216	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1965		67,800	571,000	9	14	23
EXXON NORTH SLOPE	608477	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1979		173,400	1,190,000	9	13	22
EXXON PHILADELPHIA	526792	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		75,600	637,000	9	12	21
EXXON PRINCETON	647470	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1982		43,000	307,000	9	11	20
EXXON SAN FRANCISCO	523626	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1969		75,600	637,000	9	12	21
EXXON VALDEZ	692966	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1986		209,200	1,485,000	9	11	20
EXXON WASHINGTON	273896	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1957		40,900	321,000	10	14	24
EXXON WILMINGTON	658494	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1984		40,000	325,000	10	13	23
EXXON YORKTOWN	656742	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1983		43,000	307,000	9	11	20
FALCON CHAMPION	663105	PETROLEUM TANKER	T6-M-136A	ACTIVE	MSC	DIESEL	1984		33,900	303,000	8	14	22
FALCON COUNTESS	536850	PETROLEUM TANKER	PRIVATE	INACTIVE	DOMESTIC	DIESEL	1972		37,300	310,000	9	14	23
FALCON DUCHESS	533611	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1971		37,300	303,000	9	14	23
FALCON LEADER	658555	PETROLEUM TANKER	T6-M-136A	ACTIVE	MSC	DIESEL	1983		33,500	225,000	8	14	22
FALCON PRINCESS	538011	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1972		37,300	303,000	9	14	23
FREDERICKSBURG	277561	PETROLEUM TANKER	T5-S-12B	ACTIVE	DOMESTIC	STEAM TURBINE	1958	1980	39,000	311,000	9	17	26
GLACIER BAY	526508	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		81,000	600,000	11	18	29
GOLDEN ENDEAVOR	561433	PETROLEUM TANKER	T8-S-100B	INACTIVE	FOREIGN	STEAM TURBINE	1974	1981	91,800	562,000	9	17	26
GOLDEN GATE	526972	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		62,100	404,000	9	17	26
GOLDEN MONARCH	566090	PETROLEUM TANKER	T8-S-100B	ACTIVE	FOREIGN	STEAM TURBINE	1975	1981	91,400	663,000	9	17	26
GUADALUPE	247350	PETROLEUM TANKER	T2-SE-A1 C	ACTIVE	DOMESTIC	TURBO ELECTRIC	1945	1978	30,400	258,000	9	16	25
GUS W DARNELL	684689	PETROLEUM TANKER	T-5	ACTIVE	MSC	DIESEL	1985		30,100	240,000	9	15	24
KENAI	584127	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1979		123,100	845,000	9	17	26

PRIVATELY OWNED OCEANGOING TANKERS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988 (CONTINUED)

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	BBL'S	BILLETS LIC.	BILLETS UNLIC.	BILLETS TOTAL
KEYSTONE CANYON	586129 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1978		173,400	1,190,000	9	17	26
KEYSTONER	266730 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1953	1982	18,400	157,000	9	18	27
KING	275193 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1957		34,700	275,000	9	15	24
KITTANNING	579572 PETROLEUM TANKER	T8-S-1008	ACTIVE	FOREIGN	STEAM TURBINE	1977	1982	91,300	676,000	9	16	25
KNIGHT	277183 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1958		34,700	275,000	9	15	24
LAWRENCE H GIANELLA	684692 PETROLEUM TANKER	T-5	ACTIVE	MSC	DIESEL	1986		29,500	240,000	9	15	24
LION OF CALIFORNIA	268216 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1954		16,200	128,000	8	16	24
MASSACHUSETTS	564344 PETROLEUM TANKER	T10-S-1018	INACTIVE	FOREIGN	STEAM TURBINE	1975		264,100	2,014,000	10	18	28
MIDDLETOWN	* PETROLEUM TANKER	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1983		285,500	2,081,000	2	0	2
MOBIL ARCTIC	542026 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1972		129,000	957,000	9	19	28
MOBIL MERIDIAN	206479 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1961		49,200	387,000	9	19	28
MOBILE BAY	268798 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1954		38,300	251,000	9	20	29
MONTRACHET	279334 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1959		30,800	250,000	9	19	28
NORMACSKY	570288 PETROLEUM TANKER	T6-S-93A	ACTIVE	FOREIGN	STEAM TURBINE	1977		39,200	286,000	9	16	25
NORMACSTAR	569257 PETROLEUM TANKER	T6-S-93A	ACTIVE	FOREIGN	STEAM TURBINE	1975		39,200	286,000	9	16	25
NORMACSUN	573770 PETROLEUM TANKER	T6-S-93A	ACTIVE	FOREIGN	STEAM TURBINE	1976		39,200	286,000	9	16	25
MOUNT VERNON VICTORY	284178 PETROLEUM TANKER	PRIVATE	INACTIVE	DOMESTIC	STEAM TURBINE	1961		49,200	374,000	11	21	32
NECHES	277703 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1958		34,900	281,000	9	17	26
NEW YORK SUN	620703 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1980		30,900	251,000	9	13	22
OCEAN CITY	* PETROLEUM TANKER	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1981		78,730	633,000	2	0	2
OMI CHAMPION	523341 PETROLEUM TANKER	PRIVATE	INACTIVE	DOMESTIC	STEAM TURBINE	1969		37,900	334,000	9	15	24
OMI CHARGER	522864 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1969		37,800	320,000	9	15	24
OMI COLUMBIA	663420 PETROLEUM TANKER	FOR'N CON	ACTIVE	DOMESTIC	DIESEL	1974	1983	136,200	1,027,000	9	14	23
OMI LEADER	520839 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1969		37,800	320,000	9	15	24
OMI WABASH	520728 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1969		37,900	297,000	9	15	24
OMI WILLAMETTE	510738 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1969		37,900	297,000	9	15	24
OVERSEAS ALASKA	529795 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1970		62,000	396,000	9	15	24
OVERSEAS ALICE	514928 PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	STEAM TURBINE	1968		37,300	320,000	9	14	23
OVERSEAS ARCTIC	530877 PETROLEUM TANKER	PRIVATE .	ACTIVE	DOMESTIC	STEAM TURBINE	1971		62,000	396,000	9	15	24
OVERSEAS BOSTON	630050 PETROLEUM TANKER	FOR'N CON	ACTIVE	DOMESTIC	DIESEL	1974	1981	123,700	929,000	10	15	25
OVERSEAS CHICAGO	583412 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1977		90,600	663,000	9	15	24
OVERSEAS JUNEAU	553137 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1973		120,000	924,000	9	15	24
OVERSEAS NATALIE	287156 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1961		67,200	590,000	9	15	24
OVERS+AS NEW YORK	588001 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1977		90,400	663,000	9	15	24
OVERSEAS OHIO	586647 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1977		90,600	663,000	9	15	24
OVERSEAS VALDEZ	517186 PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	STEAM TURBINE	1968		37,800	320,000	9	14	23
OVERSEAS VIVIAN	518125 PETROLEUM TANKER	PRIVA'E	ACTIVE	MSC	STEAM TURBINE	1969		37,800	320,000	9	14	23
OVERSEAS WASHINGTON	588955 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1978		90,500	663,000	9	15	24
PATRIOT	571049 PETROLEUM TANKER	T6-M-98A	ACTIVE	MSC	DIESEL	1976	1981	35,100	308,000	9	16	25
PAUL BUCK	684688 PETROLEUM TANKER	T-5	ACTIVE	MSC	DIESEL	1985		29,500	240,000	9	15	24
PECOS	259357 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1950		26,700	233,000	9	16	25
PENNSYLVANIA TRADER	209972 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1962		34,100	269,000	9	17	26
PHILADELPHIA SUN	638073 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1981		37,500	242,000	9	13	22
POMEROL	276911 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1958		30,300	246,000	9	19	28
POTOMAC TRADER	655201 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1983		50,100	356,000	9	12	21
PRINCE WILLIAM SOUND	570108 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1975		123,400	852,000	9	19	28
RANGER	573810 PETROLEUM TANKER	T6-M-98A	ACTIVE	MSC	DIESEL	1976	1981	35,100	308,000	9	16	25
RICHARD G MATTHIESON	684691 PETROLEUM TANKER	T-5	ACTIVE	MSC	DIESEL	1986		32,400	240,000	9	15	24
ROVER	577241 PETROLEUM TANKER	T6-M-98A	ACTIVE	MSC	DIESEL	1977		35,100	308,000	9	16	25
SABINE	274440 PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1957		34,900	275,000	9	16	25

PRIVATELY OWNED OCEANGOING TANKERS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988 (CONTINUED)

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	BBL'S	BILLETS		
											LIC.	UNLIC.	TOTAL
SAMUEL L COBB	684690	PETROLEUM TANKER	T-5	ACTIVE	MSC	DIESEL	1985		32,600	240,000	9	15	24
SANSINENA II	535020	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1971		70,500	549,000	9	17	26
SEA ISLE CITY	*	PETROLEUM TANKER	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1981		80,003	633,000	2	0	2
SEALIFT ANTARCTIC	557008	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1975		27,200	226,000	9	13	22
SEALIFT ARABIAN SEA	557001	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1975		27,300	226,000	9	13	22
SEALIFT ARCTIC	557007	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1975		27,200	226,000	9	13	22
SEALIFT ATLANTIC	557002	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1974		27,200	226,000	9	13	22
SEALIFT CARIBBEAN SEA	557006	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1975		27,200	226,000	9	13	22
SEALIFT CHINA SEA	557004	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1975		27,300	226,000	9	13	22
SEALIFT INDIAN OCEAN	557005	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1975		27,300	226,000	9	13	22
SEALIFT MEDITERRANEAN	557003	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1974		27,200	226,000	9	13	22
SEALIFT PACIFIC	557000	PETROLEUM TANKER	PRIVATE	ACTIVE	MSC	DIESEL	1974		27,300	226,000	9	13	22
SIERRA MADRE	641084	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1981		40,000	300,000	9	12	21
SOLAR	280223	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1959		29,200	250,000	9	15	24
SPRAY	282849	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1960		29,200	250,000	9	15	24
ST EMILION	272077	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1956		32,800	268,000	9	19	28
STUYVESANT	584459	PETROLEUM TANKER	T10-S-92A	ACTIVE	DOMESTIC	STEAM TURBINE	1977		224,700	1,657,000	10	18	28
SURF CITY	*	PETROLEUM TANKER	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1981		80,003	633,000	2	0	2
SYOSSET	277623	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1958		30,300	246,000	9	16	25
TEXACO CALIFORNIA	266910	PETROLEUM TANKER	PRIVATE J	ACTIVE	DOMESTIC	STEAM TURBINE	1954	1973	42,000	359,000	9	20	29
TEXACO CONNECTICUT	266501	PETROLEUM TANKER	PRIVATE J	ACTIVE	DOMESTIC	STEAM TURBINE	1953	1971	42,000	359,000	9	20	29
TEXACO FLORIDA	271820	PETROLEUM TANKER	PRIVATE J	ACTIVE	DOMESTIC	STEAM TURBINE	1956	1971	42,000	359,000	9	20	29
TEXACO GEORGIA	293819	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1964		25,200	208,000	9	20	29
TEXACO MASSACHUSETTS	290306	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1963		25,700	208,000	9	20	29
TEXACO MINNESOTA	243202	PETROLEUM TANKER	T2-SE-A1 J	ACTIVE	DOMESTIC	TURBO ELECTRIC	1943	1964	27,200	218,000	9	23	32
TEXACO MISSISSIPPI	245082	PETROLEUM TANKER	T2-SE-A1 J	ACTIVE	DOMESTIC	TURBO ELECTRIC	1944	1964	26,600	218,000	9	23	32
TEXACO MONTANA	298918	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1965		26,600	212,000	9	20	29
TEXACO NEW YORK	265981	PETROLEUM TANKER	PRIVATE J	ACTIVE	DOMESTIC	STEAM TURBINE	1953	1972	42,000	359,000	9	20	29
TEXACO RHODE ISLAND	296380	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1964		25,400	208,000	9	20	29
TEXAS SUN	283897	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1960		50,900	366,000	9	19	28
THOMPSON PASS	586131	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1978		173,400	1,190,000	10	18	28
TONSINA	585429	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1978		122,900	845,000	9	17	26
TOWNSEND	*	PETROLEUM TANKER	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1982		285,500	2,081,000	2	0	2
TROPIC SUN	275583	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1957		34,700	275,000	9	19	28
U S T ATLANTIC	601437	PETROLEUM TANKER	T11-S-116A	INACTIVE	FOREIGN	STEAM TURBINE	1979		396,700	3,000,000	10	19	29
U S T PACIFIC	613131	PETROLEUM TANKER	T11-S-116A	INACTIVE	FOREIGN	STEAM TURBINE	1979		398,100	3,000,000	10	19	29
VALLEY FORGE	505786	PETROLEUM TANKER	PRIVATE	ACTIVE	DOMESTIC	STEAM TURBINE	1966		36,000	329,000	10	18	28
WILLIAMSBURGH	560975	PETROLEUM TANKER	T10-S-92A	INACTIVE	FOREIGN	STEAM TURBINE	1974		225,100	1,655,000	10	19	29
	171	PETROLEUM TANKER							13,409,882	100,089,000	1,513	2,575	4,088
LOUISIANA BRIMSTONE	247757	SULPHUR	T2-SE-A1 C	ACTIVE	DOMESTIC	TURBO ELECTRIC	1945	1965	24,100	89,000	10	24	34
MARINE DUVAL	245851	SULPHUR	T2-SE-A1 C	ACTIVE	DOMESTIC	TURBO ELECTRIC	1944	1970	24,700	99,000	10	21	31
MARINE FLORIDIAN	246836	SULPHUR	T2-SE-A1 C	ACTIVE	DOMESTIC	TURBO ELECTRIC	1944	1967	24,800	90,000	8	17	25
	3	SULPHUR							73,600	278,000	28	62	90
	218	TANKERS							15,256,882	114,730,700	1,891	3,109	5,000

* KUWAITI REFLAGGED TANKER. DATA ON MANNING REFLECT U.S. CREW COMPONENT ONLY.

PRIVATELY OWNED OCEANGOING DRY BULK CARRIERS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988

PREPARED APRIL 14, 1988

VESSEL NAME		OFFNUMBER	SHIP TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	BILLETS LIC.	BILLETS UNLIC.	BILLETS TOTAL
ALTAIR		694279	BULK	C8-M-F144B	ACTIVE	FOREIGN	DIESEL	1986		62,400	9	12	21
ARCHON		668167	BULK	C8-M-F144A	ACTIVE	FOREIGN	DIESEL	1984		63,700	9	12	21
ARION		694281	BULK	C8-M-F144B	ACTIVE	FOREIGN	DIESEL	1986		63,000	9	12	21
ASPEN		694280	BULK	C8-M-F144B	ACTIVE	FOREIGN	DIESEL	1986		62,400	9	12	21
AURORA		667028	BULK	C8-M-F144A	ACTIVE	FOREIGN	DIESEL	1984		62,792	9	12	21
ENERGY INDEPENDENCE		657540	BULK	PRIVATE	INACTIVE	DOMESTIC	STEAM TURBINE	1983		32,846	9	14	23
INGER		248011	BULK	T2-SE-A1-C	ACTIVE	DOMESTIC	STEAM TURBINE	1945	1962	23,510	9	14	23
MARINE PRINCESS		652421	BULK	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1967	1982	52,565	9	17	26
OMI MISSOURI		662123	BULK	C6-M-F139A	ACTIVE	FOREIGN	DIESEL	1983		45,500	9	12	21
OMI SACRAMENTO		662124	BULK	C6-M-F139A	ACTIVE	FOREIGN	DIESEL	1983		48,890	9	12	21
OVERSEAS MARRIETTE		590624	BULK	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1978		25,541	9	13	22
OVERSEAS MARILYN		590623	BULK	FOR'N CON	ACTIVE	FOREIGN	DIESEL	1978		25,541	9	13	22
PRIDE OF TEXAS		634621	BULK	C5-M-129A	ACTIVE	FOREIGN	DIESEL	1981		34,500	8	14	22
SPIRIT OF TEXAS		635210	BULK	C5-M-129A	ACTIVE	FOREIGN	DIESEL	1982		36,476	8	14	22
STAR OF TEXAS		642934	BULK	C5-M-129A	ACTIVE	MSC	DIESEL	1982		36,476	8	13	21
SUGAR ISLANDER		547000	BULK	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1973		29,648	8	12	20
	16		BULK							705,785	140	208	348
GOLDEN PHOENIX		598731	BULK/OIL	089-S-F107B	INACTIVE	FOREIGN	STEAM TURBINE	1983		128,000	10	20	30
JADE PHOENIX		598729	BULK/OIL	089-S-F107B	INACTIVE	FOREIGN	STEAM TURBINE	1982	1982	128,000	10	20	30
SEADRIFT		241851	BULK/OIL	T2-SE-A1-C	INACTIVE	DOMESTIC	DIESEL	1942	1981	16,576	9	11	20
	3		BULK/OIL							272,576	29	51	80
ULTRAMAR		550200	ORE/BULK/OIL	088-S-90A	ACTIVE	FOREIGN	STEAM TURBINE	1973		82,200	9	17	26
ULTRASEA		555146	ORE/BULK/OIL	088-S-90A	ACTIVE	FOREIGN	STEAM TURBINE	1974		82,200	9	17	26
	2		ORE/BULK/OIL							164,400	18	34	52
BETTY WOOD		544994	TUG/BARGE BULK	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1973		23,700	4	4	8
BEVERLY ANDERSON		646729	TUG/BARGE BULK	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1982		21,500	4	4	8
CALRICE TRANSPORT		578241	TUG/BARGE BULK	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1976		25,400	8	11	19
JAMIE A BAXTER		580102	TUG/BARGE BULK	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1977		24,400	6	6	12
MOKU PAHU		649569	TUG/BARGE BULK	PRIVATE	ACTIVE	DOMESTIC	DIESEL	1982		25,900	7	8	15
	5		TUG/BARGE BULK							120,900	29	33	62
	26		DRY BULK SHIPS							1,263,661	216	326	542

(Source: Maritime Administration)

PRIVATELY OWNED OCEANGOING PASSENGER SHIPS IN THE U.S.-FLAG FLEET AS OF MARCH 31, 1988

PREPARED APRIL 14, 1988

VESSEL NAME	OFFNUMBER	TYPE	DESIGN	EMPLOYMENT STATUS	TRADE	ENGINE	YEAR BUILT	YEAR REBUILT	DWT	PASSENGERS	BILLETS		
											LIC.	UNLIC.	TOTAL
MONTEREY	264687	PASSENGER	P2-S1-1K	INACTIVE	DOMESTIC	STEAM TURBINE	1951	1956	6,453	365	32	244	276
CONSTITUTION	262827	PASSENGER	P3-S2-DL2	ACTIVE	DOMESTIC	STEAM TURBINE	1952	1982	7,108	1,088	32	297	329
INDEPENDENCE	261147	PASSENGER	P3-S2-DL2	ACTIVE	DOMESTIC	STEAM TURBINE	1951	1980	7,136	1,088	32	297	329
SANTA ROSA	276598	PASSENGER	P2-S1-1A	INACTIVE	FOREIGN	STEAM TURBINE	1958		8,713	300	33	223	256
UNITED STATES	263934	PASSENGER	P6-S4-DS	INACTIVE	FOREIGN	STEAM TURBINE	1952		16,400	1,984	97	944	1,041
	5	PASSENGER							45,810	4,825	226	2,005	2,231

(Source: Maritime Administration)

(Source: Maritime Administration, April 1988)

EXISTING PROGRAM
MARAD BUDGET GROSS-UP
ODS ACCRUALS
($000,000)
REFLECTS #s INCLUDED IN 1989 CONGRESSIONAL REQUEST

LINERS	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
APL	64.94	65.29	69.15	71.23	73.37	75.77	77.83	80.17	78.22	80.25	74.99	18.84	0.00	0.00	0.00	830.05
FARRELL	21.17	20.15	19.11	19.68	20.27	20.94	21.51	22.15	22.82	18.69	16.84	13.11	12.57	3.24	0.00	252.25
LYKES	86.68	87.95	95.56	92.58	87.90	76.54	58.81	43.89	41.93	43.30	44.48	45.82	11.81	0.00	0.00	817.25
USL	2.77	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2.77
USL (SA)	11.60	0.00	23.17	23.59	24.29	25.09	25.47	23.77	23.53	23.19	23.38	14.36	0.00	0.00	0.00	241.44
WATERMAN	13.06	12.89	13.24	13.64	9.40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	62.23
TOTAL	200.22	186.28	220.23	220.72	215.23	198.34	183.62	169.98	166.50	165.43	159.69	92.13	24.38	3.24	0.00	2,205.99
MSC/RRF RED.	0.00	(8.16)	(8.19)	(8.37)	(8.51)	(8.54)	(8.53)	(8.43)	(8.48)	(8.71)	(8.82)	(8.60)	(8.98)	(3.24)	0.00	(105.56)
TOTAL LINERS	200.22	178.12	212.04	212.35	206.72	189.80	175.09	161.55	158.02	156.72	150.87	83.53	15.40	0.00	0.00	2,100.43

BULK	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
AM. MARITIME	0.00	2.52	2.59	2.67	2.75	2.84	2.63	1.00	0.03	0.00	0.00	0.00	0.00	0.00	0.00	17.03
AM. SHIPPING	0.00	0.83	0.86	0.88	0.91	0.94	0.96	0.99	1.02	0.56	0.00	0.00	0.00	0.00	0.00	7.95
AQUARIUS	0.07	0.84	0.86	0.89	0.92	0.95	0.97	1.00	1.03	0.04	0.00	0.00	0.00	0.00	0.00	7.57
ATLAS	3.52	2.92	3.00	3.09	3.18	3.29	3.38	3.48	3.58	3.70	0.93	0.00	0.00	0.00	0.00	34.07
CHESTNUT	3.05	3.91	4.01	4.13	4.26	4.40	4.52	4.65	4.79	4.95	0.84	0.00	0.00	0.00	0.00	43.51
EQUITY	0.00	1.56	1.61	1.66	1.71	1.76	1.81	1.86	1.92	1.98	2.04	2.10	2.16	2.23	1.46	25.86
MARGATE	8.08	6.22	6.39	6.58	6.78	7.00	7.20	1.77	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.02
MORMAC MARINE	9.38	8.87	9.11	9.39	9.67	9.99	10.26	10.57	10.88	2.13	0.00	0.00	0.00	0.00	0.00	90.25
OCI	0.00	6.10	7.00	7.21	7.43	7.67	7.88	8.12	8.36	4.33	0.00	0.00	0.00	0.00	0.00	64.10
SEABULK I	1.99	2.07	2.13	2.19	2.26	2.33	2.40	2.47	2.54	2.63	2.70	2.78	2.86	2.95	1.97	36.27
SEABULK III	1.97	2.03	2.08	2.14	2.21	2.28	2.34	2.41	2.49	2.57	2.64	2.72	2.80	2.89	2.88	36.45
TOTAL	28.06	37.87	39.64	40.83	42.08	43.45	44.35	38.32	36.64	22.89	9.15	7.60	7.82	8.07	6.31	413.08
MSC/RRF RED.	0.00	(2.69)	(2.78)	(2.88)	(2.98)	(3.07)	(3.16)	(3.25)	(3.34)	(3.42)	0.00	0.00	0.00	0.00	0.00	(27.57)
TOTAL BULK	28.06	35.18	36.86	37.95	39.10	40.38	41.19	35.07	33.30	19.47	9.15	7.60	7.82	8.07	6.31	385.51
TOTAL LINER & BULK	228.28	213.30	248.90	250.30	245.82	230.18	216.28	196.62	191.32	176.19	160.02	91.13	23.22	8.07	6.31	2,485.94

(Source: Maritime Administration, April 1988)

EXISTING PROGRAM
MARAD BUDGET GROSS-UP
ODS SHIP YEARS
($000,000)
REFLECTS #s INCLUDED IN 1989 CONGRESSIONAL REQUEST

LINERS	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
APL	21.2	20.7	21.8	21.8	21.8	21.8	21.8	21.8	21.0	20.9	19.4	4.8	0.0	0.0	0.0	238.8
FARRELL	5.8	5.4	5.4	5.4	5.4	5.4	5.4	5.4	5.4	4.1	3.5	2.7	2.7	0.7	0.0	62.7
LYKES	21.9	21.9	23.2	22.3	21.0	18.4	15.0	12.3	12.0	12.0	12.0	12.0	3.0	0.0	0.0	207.0
USL	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.8
USL (SA)	2.8	0.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	3.6	0.0	0.0	0.0	60.4
WATERMAN	3.1	3.0	3.0	3.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	14.1
TOTAL	55.6	51.0	59.4	58.5	56.2	51.6	48.2	45.5	44.4	43.0	40.9	23.1	5.7	0.7	0.0	583.8
MSC/RRF RED.	0.0	(2.2)	(2.2)	(2.2)	(2.2)	(2.2)	(2.3)	(2.3)	(2.3)	(2.3)	(2.3)	(2.2)	(2.1)	(0.7)	0.0	(27.5)
TOTAL LINERS	55.6	48.8	57.2	56.3	54.0	49.4	45.9	43.2	42.1	40.7	38.6	20.9	3.6	0.0	0.0	556.3

BULK	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
AM. MARITIME	0.0	0.7	0.8	0.8	0.8	0.7	0.7	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.7
AM. SHIPPING	0.0	0.3	0.2	0.2	0.2	0.3	0.2	0.2	0.2	0.5	0.0	0.0	0.0	0.0	0.0	2.3
AQUARIUS	0.0	0.3	0.2	0.2	0.2	0.3	0.2	0.2	0.2	0.0	0.0	0.0	0.0	0.0	0.0	1.8
ATLAS	0.9	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.2	0.0	0.0	0.0	0.0	8.3
CHESTNUT	0.9	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	0.2	0.0	0.0	0.0	0.0	11.9
EQUITY	0.0	0.7	0.8	0.8	0.8	0.7	0.8	0.8	0.8	0.7	0.8	0.8	0.8	0.7	0.5	10.5
MARGATE	2.5	2.0	2.0	2.0	2.0	2.0	2.0	0.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	15.0
MORMAC MARINE	2.9	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	0.5	0.0	0.0	0.0	0.0	0.0	25.8
OCI	0.0	1.8	2.0	2.0	2.0	2.0	2.0	2.0	2.0	1.0	0.0	0.0	0.0	0.0	0.0	16.8
SEABULK I	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.6	14.6
SEABULK III	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	15.0
TOTAL	9.3	12.6	12.8	12.8	12.8	12.8	12.7	10.7	10.0	6.7	3.2	2.8	2.8	2.7	2.1	126.8
MSC/RRF RED.	0.0	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	0.0	0.0	0.0	0.0	0.0	(7.2)
TOTAL BULK	9.3	11.8	12.0	12.0	12.0	12.0	11.9	9.9	9.2	5.9	3.2	2.8	2.8	2.7	2.1	119.6
TOTAL LINER & BULK	64.9	60.6	69.2	68.3	66.0	61.4	57.8	53.1	51.3	46.6	41.8	23.7	6.4	2.7	2.1	675.9

(Source: Maritime Administration, April 1988)

REFORM PROGRAM
MARAD BUDGET GROSS-UP
($000,000)
REFLECTS #s INCLUDED IN 1989 CONGRESSIONAL REQUEST

LINERS	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
APL	64.94	65.29	60.99	63.67	53.33	55.46	57.60	58.07	59.81	61.77	63.45	65.35	0.00	0.00	0.00	729.74
FARRELL	21.17	20.15	18.32	18.10	16.97	22.69	26.18	26.40	27.19	28.08	28.84	29.71	0.00	0.00	0.00	283.80
LYKES	86.68	87.95	81.72	72.06	53.33	55.46	57.60	58.07	59.81	61.77	63.45	65.35	0.00	0.00	0.00	803.26
USL	2.77	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2.77
USL (SA)	11.60	0.00	24.78	24.76	16.16	16.80	17.45	17.59	18.12	18.71	19.23	19.81	0.00	0.00	0.00	205.03
WATERMAN	13.06	12.89	13.24	8.68	10.25	14.83	21.76	22.40	23.08	23.84	24.49	25.23	0.00	0.00	0.00	213.75
TOTAL	200.22	186.28	199.05	187.28	150.03	165.25	180.59	182.53	188.01	194.18	199.46	205.45	0.00	0.00	0.00	2,238.34
MSC/RRF RED.	0.00	(8.16)	(7.88)	(8.51)	(6.47)	(5.66)	(6.84)	(6.93)	(7.14)	(7.36)	(7.57)	(7.80)	0.00	0.00	0.00	(81.32)
TOTAL LINERS	200.22	178.12	191.17	178.77	143.56	158.59	173.75	175.60	180.88	186.82	191.89	197.65	0.00	0.00	0.00	2,157.02

BULK	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
AM. MARITIME	0.00	2.52	2.59	2.67	2.75	2.84	2.63	1.00	0.03	0.00	0.00	0.00	0.00	0.00	0.00	17.03
AM. SHIPPING	0.00	0.83	0.86	0.88	0.91	0.94	0.96	0.99	1.02	0.56	0.00	0.00	0.00	0.00	0.00	7.95
AQUARIUS	0.07	0.84	0.86	0.89	0.92	0.95	0.97	1.00	1.03	0.04	0.00	0.00	0.00	0.00	0.00	7.57
ATLAS	3.52	2.92	3.00	3.09	3.18	3.29	3.38	3.48	3.58	3.70	0.93	0.00	0.00	0.00	0.00	34.07
CHESTNUT	3.05	3.91	4.01	4.13	4.26	4.40	4.52	4.65	4.79	4.95	0.84	0.00	0.00	0.00	0.00	43.51
EQUITY	0.00	1.56	1.61	1.66	1.71	1.76	1.81	1.86	1.92	1.98	2.04	2.10	2.16	2.23	1.46	25.86
MARGATE	8.08	6.22	6.39	6.58	6.78	7.00	7.20	1.77	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.02
MORMAC MARINE	9.38	8.87	9.11	9.39	9.67	9.99	10.26	10.57	10.88	2.13	0.00	0.00	0.00	0.00	0.00	90.25
OCI	0.00	6.10	7.00	7.21	7.43	7.67	7.88	8.12	8.36	4.33	0.00	0.00	0.00	0.00	0.00	64.10
SEABULK I	1.99	2.07	2.13	2.19	2.26	2.33	2.40	2.47	2.54	2.63	2.70	2.78	2.87	2.96	1.98	36.30
SEABULK III	1.97	2.03	2.08	2.14	2.21	2.28	2.34	2.41	2.49	2.57	2.64	2.72	2.80	2.89	2.88	36.45
TOTAL	28.06	37.87	39.64	40.83	42.08	43.45	44.35	38.32	36.64	22.89	9.15	7.60	7.83	8.08	6.32	413.11
MSC/RRF RED.	0.00	(2.69)	(2.78)	(2.88)	(2.97)	(3.07)	(3.16)	(3.25)	(3.34)	(3.43)	0.00	0.00	0.00	0.00	0.00	(27.57)
TOTAL BULK	28.06	35.18	36.86	37.95	39.11	40.38	41.19	35.07	33.30	19.46	9.15	7.60	7.83	8.08	6.32	385.54
TOTAL LINER & BULK	228.28	213.30	228.03	216.72	182.67	198.97	214.94	210.67	214.18	206.28	201.04	205.25	7.83	8.08	6.32	2,542.56
PREF CARGO CARR RED	0.00	0.00	(25.66)	(23.99)	(19.27)	(21.28)	(23.32)	(23.63)	(24.33)	(25.13)	(25.80)	(26.58)	0.00	0.00	0.00	(238.99)
GRAND TOTAL	228.28	213.30	202.37	192.73	163.40	177.69	191.62	187.04	189.84	181.15	175.24	178.68	7.83	8.08	6.32	2,303.57

(Source: Maritime Administration, April 1988)

REFORM PROGRAM
MARAD BUDGET GROSS-UP
SHIP YEARS
REFLECTS #s INCLUDED IN 1989 CONGRESSIONAL REQUEST

LINERS	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 200	TOTAL
APL	21.2	20.7	19.8	19.8	19.8	19.8	19.8	19.8	19.8	19.8	19.8	19.8	0.0	0.0	0.0	239.9
FARRELL	5.8	5.4	5.4	5.4	6.3	8.1	9.0	9.0	9.0	9.0	9.0	9.0	0.0	0.0	0.0	90.4
LYKES	21.9	21.9	19.8	19.8	19.8	19.8	19.8	19.8	19.8	19.8	19.8	19.8	0.0	0.0	0.0	241.8
USL	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.8
USL (SA)	2.8	0.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	0.0	0.0	0.0	62.8
WATERMAN	3.1	3.0	3.0	3.0	5.0	6.9	9.9	9.9	9.9	9.9	9.9	9.9	0.0	0.0	0.0	83.4
TOTAL	55.6	51.0	54.0	54.0	56.9	60.6	64.5	64.5	64.5	64.5	64.5	64.5	0.0	0.0	0.0	719.1
MSC/RRF RED.	0.0	(2.2)	(2.4)	(2.4)	(2.4)	(2.4)	(2.4)	(2.4)	(2.4)	(2.4)	(2.4)	(2.4)	0.0	0.0	0.0	(26.2)
TOTAL LINERS	55.6	48.8	51.6	51.6	54.5	58.2	62.1	62.1	62.1	62.1	62.1	62.1	0.0	0.0	0.0	692.9

BULK	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
AM. MARITIME	0.0	0.7	0.8	0.8	0.8	0.7	0.7	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.7
AM. SHIPPING	0.0	0.3	0.2	0.2	0.2	0.3	0.2	0.2	0.2	0.5	0.0	0.0	0.0	0.0	0.0	2.3
AQUARIUS	0.0	0.3	0.2	0.2	0.2	0.3	0.2	0.2	0.2	0.0	0.0	0.0	0.0	0.0	0.0	1.8
ATLAS	0.9	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.2	0.0	0.0	0.0	0.0	8.3
CHESTNUT	0.9	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	0.2	0.0	0.0	0.0	0.0	11.9
EQUITY	0.0	0.7	0.8	0.8	0.8	0.7	0.8	0.8	0.8	0.7	0.8	0.8	0.8	0.7	0.5	10.5
MARGATE	2.5	2.0	2.0	2.0	2.0	2.0	2.0	0.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	15.0
MORMAC MARINE	2.9	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8	0.5	0.0	0.0	0.0	0.0	0.0	25.8
OCI	0.0	1.8	2.0	2.0	2.0	2.0	2.0	2.0	2.0	1.0	0.0	0.0	0.0	0.0	0.0	16.8
SEABULK I	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.6	14.6
SEABULK III	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	15.0
TOTAL	9.3	12.6	12.8	12.8	12.8	12.8	12.7	10.7	10.0	6.7	3.2	2.8	2.8	2.7	2.1	126.8
MSC/RRF RED.	0.0	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	(0.8)	0.0	0.0	0.0	0.0	0.0	(7.2)
TOTAL BULK	9.3	11.8	12.0	12.0	12.0	12.0	11.9	9.9	9.2	5.9	3.2	2.8	2.8	2.7	2.1	119.6
TOTAL LINER & BULK	64.9	60.6	63.6	63.6	66.5	70.2	74.0	72.0	71.3	68.0	65.3	64.9	2.8	2.7	2.1	812.5
PREF CARGO CARR RED			(6.9)	(6.9)	(7.3)	(7.8)	(8.3)	(8.3)	(8.3)	(8.3)	(8.3)	(8.3)	0.0	0.0	0.0	(78.7)
GRAND TOTAL	64.9	60.6	56.7	56.7	59.2	62.4	65.7	63.7	63.0	59.7	57.0	56.6	2.8	2.7	2.1	733.8

(Source: Maritime Administration, April 1988)

REFORM PROGRAM
MARAD NEW AGREEMENTS
($000,000)
REFLECTS #s INCLUDED IN 1989 CONGRESSIONAL REQUEST

LINERS	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
OTHER AUTHORITY	12.37	15.48	10.03	10.36	10.64	10.96	11.29	11.66	11.97	12.33	0.00	0.00	0.00	117.09
AMERICAN AUTOMAR	2.23	2.30	2.37	2.45	2.51	2.59	2.67	2.75	2.83	2.91	0.00	0.00	0.00	25.61
CROWLEY	3.54	3.65	3.76	3.88	3.99	4.11	4.23	4.37	4.49	4.62	0.00	0.00	0.00	40.64
CENTRAL GULF	15.67	16.14	16.63	17.17	17.64	18.17	18.71	19.33	19.85	20.45	0.00	0.00	0.00	179.76
RAINBOW	1.68	1.73	1.78	1.84	1.89	1.95	2.01	2.07	2.13	2.19	0.00	0.00	0.00	19.27
SEA-LAND	49.25	50.73	52.25	53.97	55.44	57.10	58.81	60.74	62.39	64.26	0.00	0.00	0.00	564.94
TOTAL	84.74	90.03	86.82	89.67	92.11	94.88	97.72	100.92	103.66	106.76	0.00	0.00	0.00	947.31
PREF CARGO CARR RED	(11.82)	(12.08)	(11.65)	(12.04)	(12.36)	(12.74)	(13.12)	(13.54)	(13.90)	(14.31)	0.00	0.00	0.00	(127.56)
GRAND TOTAL	72.92	77.95	75.17	77.63	79.75	82.14	84.60	87.38	89.76	92.45	0.00	0.00	0.00	819.75

(Source: Maritime Administration, April 1988)

REFORM PROGRAM
MARAD NEW AGREEMENTS
SHIP YEARS
REFLECTS $s INCLUDED IN 1989 CONGRESSIONAL REQUEST

LINERS	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	TOTAL
OTHER AUTHORITY	3.80	3.80	3.80	3.80	3.80	3.80	3.80	3.80	3.80	3.80	0.00	0.00	0.00	38.00
AMERICAN AUTOMAR	1.80	1.80	1.80	1.80	1.80	1.80	1.80	1.80	1.80	1.80	0.00	0.00	0.00	18.00
CROWLEY	1.80	1.80	1.80	1.80	1.80	1.80	1.80	1.80	1.80	1.80	0.00	0.00	0.00	18.00
CENTRAL GULF	6.30	6.30	6.30	6.30	6.30	6.30	6.30	6.30	6.30	6.30	0.00	0.00	0.00	63.00
RAINBOW	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.00	0.00	0.00	9.00
SEA-LAND	19.80	19.80	19.80	19.80	19.80	19.80	19.80	19.80	19.80	19.80	0.00	0.00	0.00	198.00
TOTAL	34.40	34.40	34.40	34.40	34.40	34.40	34.40	34.40	34.40	34.40	0.00	0.00	0.00	344.00
PREF CARGO CARR RED	(4.60)	(4.60)	(4.60)	(4.60)	(4.60)	(4.60)	(4.60)	(4.60)	(4.60)	(4.60)	0.00	0.00	0.00	(46.00)
GRAND TOTAL	29.80	29.80	29.80	29.80	29.80	29.80	29.80	29.80	29.80	29.80	0.00	0.00	0.00	298.00

INTERNATIONAL OCEAN COST COMPARISON

SUMMARY FOR FY 87/88

ORGIN/DESTINATION	LOWEST AMERICAN FLAG OFFER	CONTRACT AWARD RATE	% DIFFERENCE IN COST AMER. VS. FOREIGN
N.Y. - DUBLIN	$1,750.00	$700.00	150.00%
N.Y. - ANTWERP	$1,950.00	$400.00	387.50%
N.Y. - GDYNIA	$2,000.00	$1,100.00	81.82%
N.Y. - FELIXSTOWE	$1,950.00	$455.00	328.57%
N.Y. - ROTTERDAM	$1,950.00	$434.00	349.31%
N.Y. - GOTEBORG	$1,750.00	$600.00	191.67%
N.Y. - GOTEBORG	$2,000.00	$700.00	185.71%
N.Y. - OSLO	$2,000.00	$990.00	102.02%
N.Y. - COPENHAGEN	$2,000.00	$490.00	308.16%
N.Y. - YOKOHAMA	$1,555.00	$1000.00	55.50%
N.Y. - BREMERHAVEN	$2,050.00	$349.00	487.39%
N.y. - LEHAVRE	$1,950.00	$354.00	450.85%
N.Y. - LEHAVRE	$1,100.00	$306.00	259.48%
OAK. - MANILA	$1,004.00	$595.00	68.74%

The Origin/Destination pairs showing two entries reflect different container sizes.

(Source: U.S. Postal Service, April 1988)

NATIONAL FLAG PREFERENCE

COUNTRIES CONTACTED (37)

Australia
Argentina
Belgium
Brazil
Chile
China, Peoples Rep.
Colombia
Denmark
Egypt
Finland
France
Germany, Fed. Rep.
Greece
Great Britain
Hong Kong
India
Indonesia
Ireland
Israel
Italy
Japan
Korea, North
Malaysia
Netherlands
New Zealand
Norway
Pakistan
Peru
Philippines
Poland
Portugal
Russia (USSR)
South Africa
Spain
Sweden
Turkey
Venezuela

REPORTING PREFERENCE GIVEN TO NATIONAL CARRIERS (8)

Argentina
China, Peoples Rep.
Colombia
Egypt
Greece
Philippines
Poland
Spain

REPORTING NO PREFERENCE GIVEN TO NATIONAL CARRIERS (19)

Australia
Belgium
Brazil
Denmark
France
Germany, Fed. Rep.
Great Britain
Hong Kong
Indonesia
Ireland
Israel
Japan
Malaysia
Netherlands
New Zealand
Norway
South Africa
Sweden
Venezuela

NOT APPLICABLE (3)

Korea, North (no maritime service to the United States)
Chile (uses SAL mail)
Turkey (airlifted mail)

NO RESPONSE (7)

Finland
India
Italy
Pakistan
Peru
Portugal

Russia (USSR) (did not answer question but uses own ships to United States)

July 8, 1986

(Source: U.S. Postal Service, April 1988)

CURRENT MSC CONTRACTS WITH MARINE AND OCEAN TRANSPORT LINES
(Source: MSC, 5 May 1988)

AFRAM Lines (USA), Ltd.
4733 Bethesda Avenue, Suite 570
Bethesda, MD 20814

Alaska Hydo-Train Corporation
P.O. Box 2287
Seattle, WA 98111

American President Lines, Ltd.
1800 Harrison Street
Oakland, CA 94612

Central Gulf Lines, Inc.
P.O. Box 53366
New Orleans, LA 70153

Crowley Caribbean Transport, Inc.
2801 N.W., 74th Avenue
Miami, FL 33122

Dock Express Contractors, Inc.
3040 Post Oak Blvd., Suite 1600
Houston, TX 77056

FEDNAV (USA), Inc.
1655 N. Ft. Myer Drive
Arlington, VA 22209

Farrell Lines, Inc.
1 Whitehall Street
New York, NY 10004

Lykes Brothers Steamship Company, Inc.
300 Poydras Street
New Orleans, LA 70130

Marine Car Carriers, Inc.
150 Meadowlands Parkway
Seacaucus, NJ 07094

Marvest, Inc.
601 Sawyer, Suite 201
Houston, TX 77007

Matson Navigation Company, Inc.
P.O. Box 7542
San Francisco, CA 94120

Puerto Rico Marine Management, Inc.
P.O. Box 1910
Elizabeth, NJ 07207

Rainbow Navigation, Inc.
P.O. Box 801
Red Bank, NJ 07701

Samson Tug & Barge Company, Inc.
337 N.W. 40th Street
Seattle, WA 98107

Sea-Land Service, Inc.
1140 Connecticut Avenue, N.W.
Washington, DC 20036

Topgallant Group, Inc.
West Lane
South Salem, NY 10590

Totem Ocean Trailer Express
P.O. Box 24908
Seattle, WA 98214

American Transport Lines, Inc.
Glenpointe Center East
300 Frank W. Burr Blvd.
Teaneck, NJ 07666-6778

CCC Georgia, Inc.
225 Newcastle Street
E. River Terminal
Savannah, GA 31520

Seabarge Group, Inc.
1040 Port Blvd.
Port of Miami
Miami, FL 33132

Trailer Marine Transport
North Regency 11
9417 Regency Square Blvd
Jacksonville, FL 32211

MSC CHARTERS SHIPS FROM THE FOLLOWING COMPANIES:
(Source: MSC, 5 May 1988)

American Automar, Inc.
1025 Thomas Jefferson St., Suite 30
Washington, DC 20007

Crowley Maritime Corporation
2401 Fourth Avenue
Seattle, WA 98121

Delta Marine, Inc.
P.O. Box 2191
Wilmington, NC 28402

Furlough, Inc.
P.O. Box 330, Route 1
Roper, NC 27970

Hannah Marine Corporation
Rt. 83 & Archer Avenue
Lemont, IL 60439

MTM, Inc.
660 Madison Avenue
New York, NY 10021

Marine Support Service
3183 Virginia Avenue, S.E.
Charleston, WV 25304

Maritime Overseas Corporation
1114 Avenue of the Americas
New York, NY 10036

Montco Enterprises, Inc.
P.O. Box 785
Golden Meadow, LA 70357

Nicor Marine, Inc.
3201 General DeGaulle Drive, 2nd Fl
New Orleans, LA 70114

Ocean Champion Shipping, Inc.
13105 Northwest Freeway, Suite 700
Houston, TX 77040

Ocean Freedom Shipping, Inc.
13105 Northwest Freeway, Suite 700
Houston, TX 77040

Ocean Spirit Shipping, Inc.
13105 Northwest Freeway, Suite 700
Houston, TX 77404

Ocean Star Shipping, Inc.
13105 Northwest Freeway, Suite 700
Houston, TX 77040

Ocean Triumph Shipping, Inc.
13105 Northwest Freeway, Suite 700
Houston, TX 77404

Red River Shipping Corporation
5741 Echo Canyon Circle
Phoenix, AZ 85018

Sealift, Inc.
68 West Main St.
Oyster Bay, NY 10017

Valdez Tankships Corporation
1114 Avenue of the Americas
New York, NY 10036

Vessel Charters, Inc.
One World Trade Center, Suite 2511
New York, NY 10048

Vivian Tankships Corporation
1114 Avenue of the Americas
New York, NY 10036

Zapata Gulf Pacific, Inc.
1253 First Avenue
Harvey, LA 70059

MSC CHARTERS MILITARY PREPOSITIONING SHIPS (MPS) FROM THE FOLLOWING COMPANIES:
(Source: MSC, 5 May 1988)

Expediter Transport Corporation
c/o Maersk Line Ltd.
Giralda Farms
Madison, NJ 07940-0884

Exporter Transport Corporation
c/o Maersk Line Ltd.
Giralda Farms
Madison, NJ 07940-0884

Extender Transport Corporation
c/o Maersk Line Ltd.
Giralda Farms
Madison, NJ 07940-0884

Expresser Transport Corporation
c/o Maersk Line Ltd.
Giralda Farms
Madison, NJ 07940-0884

Expander Transport Corporation
c/o Maersk Line, Ltd.
Giralda Farms
Madison, NJ 07940-0884

WTAK-1, Inc.
c/o Waterman Steamship Corporation
1625 I Street N.W., Suite 320
Washington, DC 20006

WTAK-2, Inc.
c/o Waterman Steamship Corporation
1625 I Street, N.W.
Washington, DC 20006

WATK-3, Inc.
c/o Waterman Steamship Corporation
1625 I Street, N.W.
Washington, DC 20006

UNSUCCESSFUL BIDDERS WITHIN THE PAST 12 MONTHS FOR MSC MARINE AND OCEAN TRANSPORT CHARTERS (Source: MSC, 5 May 1988)

A.R. Torrico & Sons (Shipping) Inc.
P.O. Box 55125
Seattle, WA 98111

Admiral Towing & Barge Company
1800 Terminal Tower
Cleveland, OH 44113

American Heavy Lift Shipping Company
15355 Vantage Pkwy West, Suite 100
Houston, TX 77032

American President Lines, Ltd.
1800 Harrison Street
Oakland, CA 94612

American Trading Transportation Co., Inc.
555 Fifth Avenue
New York, NY 10017

Apex Marine Corporation
2001 Marcus Avenue, Suite N215
Lake Success, NY 11042

Asco-Falcon II, Inc.
1111 Fannin Street, Suite 1060
Houston, TX 77002

Bulloch International, Inc.
888 17th Street N.W., Suite 1000
Washington, DC 20006

C. S. Loveland Company, Inc.
520 S. Front Street
Philadelphia, PA 19147

CMI Corporation
2600 Telegraph Road
Bloomfield Hills, MI 48303

Calore Rigging Corporation
7 Belver Avenue, Suite 218
North Kingstown, RI 02852

Command Marine
P.O. Box 4709
Lafayette, LA 70502

Crowley Caribbean Transport, Inc.
2801 N.W. 74th Avenue
Miami, FL 33122

Dynateria, Inc.
P.O. Box 1106
Dunn, NC 28334

Equity Carriers I, Inc.
1111 Fannin Street, Suite 1060
Houston, TX 77002

First Attransco Tanker Corporation
555 Fifth Avenue
New York, NY 10017

First Transportation
4402 E. Aloha Drive, Suite 3
Bay St. Louis, MS 39520

G & B Marine, Inc.
229 Development Street
Houma, LA 70363

General Offshore Corporation
P.O. Box 21726
Fort Lauderdale, FL 33335

Intercontinental Equipment, Inc.
P.O. Box 64904
San Francisco, CA 94164-9004

International Marine, Inc.
1441 N. Northlake Way
Seattle, WA 98103

Keystone Shipping Company
313 Chestnut Street
Philadelphia, PA 19106

M/V Panther, Inc.
P.O. Box 5132
Fort Lauderdale, FL 33310

MAR, Inc.
6110 Executive Blvd, Suite 410
Rockville, MD 20852

Marine Support Service, Inc.
3113 Virginia Avenue, S.E.
Charleston, WV 25304

Mormac Marine Transport, Inc.
1 Landmark Square
Stamford, CT 06901

Multi Sea Maritime, Inc.
305 Broadway, Suite 1100
New York, NY 10007

OMI Corporation
280 Park Avenue
New York, NY 10017

Ocean Bulk Carriers, Inc.
1114 Avenue of the Americas
New York, NY 10036

Otto Candies, Inc.
P.O. Box 25
Des Allemands, LA 70035-0025

Pan Oceans Marine, Inc.
200 Industrial Park Road
Larose, LA 70373

Pactow
Pier D, Berth 35
P.O. Box 1940
Long Beach, CA

Puget Sound Tug & Barge Company
2401 Fourth Avenue
Seattle, WA 98111

R. Lloyd, Inc.
633 South Andrews Avenue
Fort Lauderdale, FL 33301

Second Attransco Tanker Corporation
555 Fifth Avenue
New York, NY 10017

Southern Ocean Transport, Inc.
Three Riverway, Suite 610
Houston, TX 77056

Southern Ocean Transport, Inc.
Three Riverway, Suite 610
Houston, TX 77056

The Stone Group
P.O. Box 53227
Lafayette, LA 70505

Tidewater Marine Service, Inc.
1440 Canal Street
New Orleans, LA 70112

Trico Marine, Inc.
8401 Westheimer, Suite 110
Houston, TX 77063

United States Lines, Inc.
27 Commerce Street
Cranford, NJ 07016

Wijsmuller (USA), Inc.
16010 Barkers Point Lane
Houston, TX 77079

UNSUCCESSFUL BIDDERS FOR MSC LINER AGREEMENTS AND DEDICATED CONTRACTS TO PLACES THE LINER AGREEMENTS DON'T COVER

(Source: MSC, 5 May 1988)

Acadian Marine Service, Inc.
419 Rue Decatur
New Orleans, LA 70130

Altair Navigation Corporation
265A Route 46, Suite 3F1
Totowa, NJ 07512

American Industrial Carriers, Inc.
433 Post Road
Darien, CT 06820

American Transport Lines, Ltd.
P.O. box 309
Teaneck, NJ 07666-6778

American-Azores Shipping Company
325 Chestnut Street, Suite 710
Philadelphia, PA 19106

Ceres Corporation
P.O. Box 609
Portsmouth, VA 23705

Foss Maritime
660 West Ewing Street
Seattle, WA 98119

G & T Shipping, Inc.
9987 Wallisville Road
Houston, TX 77029

Gulf Fleet Marine Corporation
Canal Place One, Suite 2400
New Orleans, LA 70130

Hornbeck Offshore
2317 Broadway
Galveston, TX 77550

Keflavik Shipping Agency, Ltd.
P.O. Box 62, IS-235
Keflavik, Iceland

Keith Chartering, Inc.
47 Arch Street
Greenwich, CT 06836

Offshore Express
47 Arch Street
Greenwich, CT 06836

Pearcy Marine, Inc.
1100 NASA Road One, Suite 503
Houston, TX 77058

Samband Lines
P.O. Box 1480, IS-121
Reykjavik, Iceland

Seaway Express
7814 8th Avenue, South
Seattle, WA 98108

Skipafelagio Vikur, Ltd.
Karsnesbraut 106, IS-200
Kopavogur, Iceland

The Iceland Steamship Company, Ltd.
Posthusstraeti 2, IS-121
Reykjavik, Iceland

Transtech Marine Company
P.O. Box 9
Elwyn, PA 19063

Washington Maritime Shipping Corporation
1030 15th Street N.W., Suite 800
Washington, DC 20005

World Trade Shipping Corporation
P.O. Box 88
Oyster Bay, NY 11771

MARITIME PROMOTION

WEDNESDAY, APRIL 13, 1988

House of Representatives,
Subcommittee on Merchant Marine,
Committee on Merchant Marine and Fisheries,
Washington, DC.

The Subcommittee met, pursuant to notice at 10:08 a.m., in room 1334, Longworth House Office Building, Hon. Walter B. Jones (Chairman of the Subcommittee) presiding.

Present: Representatives Jones, Anderson, Tallon, Pickett, Lent, Bateman, Saxton, Miller, Bentley, and Coble; Representative Ortiz, Member, Committee on Merchant Marine and Fisheries.

Subcommittee staff present: Cynthia M. Wilkinson, Chief Counsel; Gregory L. Lambert, Counsel; Melanie M. Barber, Counsel; Ann M. Mueller, Subcommittee Clerk; and Kip Robinson, Minority Counsel.

Committee staff present: Edmund B. Welch, Chief Counsel; Gerry Seifert, General Counsel for Maritime Affairs; Rusty Johnston, Minority Counsel; and Gwen Lockhart, Chief Minority Clerk.

STATEMENT OF HON. WALTER B. JONES, A U.S. REPRESENTATIVE FROM NORTH CAROLINA AND CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE

Mr. Jones. Good morning.

Today the Subcommittee completes its hearings on the operating-differential subsidy program. The testimony we have already received vividly shows an urgent need to reform this program. The previous witnesses have all agreed on the importance of developing a program that will assist currently unsubsidized operators and increase the operators' flexibility. There is also a consensus that operators need to acquire vessels at world market prices.

The principal area of disagreement is how and where operators should acquire their vessels. The carriers argue for unrestricted worldwide acquisition. Shipbuilders say that this approach, coupled with the declining naval ship program, will destroy our Nation's shipyard base. Everyone agrees that we need a shipyard base; the disagreement centers on how we can accomplish that goal.

Shipyards in virtually every other country benefit from extensive support from their government. We know that, if we are to maintain our shipbuilding capacity, there must be Federal assistance to our shipyards. It may be direct assistance (such as build-and-charter programs) or indirect assistance (such as requiring subsidized operators to build in U.S. yards). Whatever the approach, assistance of some kind is absolutely essential. The cost will be substantial, but I am convinced that this is a necessary national defense expense.

To reconcile these goals and develop an ODS reform bill is no simple task. Since 1985, the Subcommittee has spent countless hours trying to develop a compromise that would address the problems of the industry. Without a compromise acceptable to the industry, it will be impossible to make a convincing case for the Congress. Far too many Members of Congress underestimate the importance of the American merchant marine and our shipbuilding base.

To assure that we have the necessary support to enact legislation that will assist both builders and operators, we need a united front. No segment of the industry can get what it wants without the support and cooperation of the other segments. Operators must accept that the cost of this bill will be increased because of the shipyard provisions; shipyards, in turn, must accept some foreign construction; and labor must recognize that they will have to give some, too. All sides must accept the fact that they no longer have the luxury of endless debate. All sides must move toward a real compromise or there will be no bill, no reform, and no maritime industry.

I recall the story of the woman who each day would go to church and pray to win the lottery. After years of prayer, the woman despaired and asked God why her prayers had gone unanswered. Suddenly, the church was filled with light and the angry voice of the Lord was heard, "Meet me half way; buy a ticket."

The moral here is that no matter how much we in Government want to help, we cannot pass legislation without the cooperation of all segments of the industry. Compromise is our ticket to legislative success.

I recognize Mr. Lent, the Ranking Minority Member.

STATEMENT OF HON. NORMAN F. LENT, A U.S. REPRESENTATIVE FROM NEW YORK AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON MERCHANT MARINE

Mr. LENT. Thank you, Mr. Chairman.

Today will be the third day that our Subcommittee has held a hearing on the various bills to revise and reform the existing operating-differential subsidy program.

Previously, we have heard from the Commission on Merchant Marine and Defense, the steamship companies, the Maritime Administration, the Military Sealift Command, and the U.S. Postal Service. Today's hearing was set up to receive testimony from maritime labor representatives and some of the domestic liner and bulk vessel operators.

I am disappointed that the representatives from the labor organizations have elected to submit their thoughts to the Committee for the record because such a significant part of the ODS program involves payments for the vessel crews. I was hopeful that we would be able to discuss with these representatives their thoughts on ways to make the program more efficient.

I appreciate the fact that this is a complicated subject and some of the labor representatives may not have had an opportunity to discuss all of the alternatives among themselves as well as with the vessel operators. However, I will look forward to seeing their prepared comments, and I trust that they will address points that we have heard discussed in the earlier hearings.

I do appreciate the representatives of the domestic operators being here today as well as the spokesman for the bulk carriers. I believe that it is the intent of this Subcommittee to minimize any adverse effects that an ODS reform proposal would have on the domestic operators as well as the bulk carriers. It will be useful for us to hear from these other operators their views as to how we can craft a new ODS program.

Mr. Chairman, I applaud the role that you have played thus far in these hearings and look forward to a speedy yet comprehensive hearing this morning. Thank you.

Mr. Jones. Do any of the other Members desire to be heard? Mr. Anderson.

STATEMENT OF HON. GLENN M. ANDERSON, A U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. Anderson. Thank you, Mr. Chairman.

Today we are conducting our third in a series of hearings on the future of the operating-differential subsidy program. The Subcommittee must address the issue of ODS reform in a responsible and fair manner. The task at hand is no doubt a difficult one given the variety of players involved in the debate, including subsidized and unsubsidized foreign commerce operators, domestic operators, maritime labor, and the shipbuilding industry.

But despite this difficulty we must move forward. We cannot afford paralysis on this issue simply because there are fairly strong differences of opinion among many of those involved in the ODS reform debate. At the same time, we cannot afford to benefit one sector of the maritime industry at the sacrifice of another.

The challenge, therefore, is to avoid inaction, but not at the expense of undermining one maritime sector or industry at the promotion of another. I believe that now is the time for the operators, both subsidized and unsubsidized, and the maritime unions and shipbuilding industry to come together. Clearly, not everyone is going to get everything they want; however, with cooperation and creativity I believe that everyone could benefit.

Mr. Chairman, thus far we have heard eloquent testimony provided by this country's major foreign commerce liner operators, the shipbuilding industry, MARAD, and the FMC. I am confident that today's testimony will also have the same positive contribution to this Subcommittee's ongoing consideration of ODS reform, and I look forward to hearing from the distinguished witnesses today.

Mr. Jones. Does anyone else desire to be heard?

Mr. Lent. Mr. Chairman, I wonder if I could have unanimous consent to place in the record at this point a statement of Congressman Davis?

Mr. Jones. Without objection, so ordered.

[The prepared statement of Mr. Davis follows:]

Statement of Hon. Robert W. Davis, a U.S. Representative From Michigan and Ranking Minority Member, Committee on Merchant Marine and Fisheries

Mr. Chairman, we are here today for the last of three hearings on ODS reform. I will not repeat what I said earlier—but simply to emphasize the need for consensus. To date, we have not achieved the consensus needed to obtain a bill this session.

We heard from the interested liner community four weeks ago, the shipbuilders two weeks ago. Today, the bulk carriers and two of our domestic operators.

Mr. Chairman, if anything is clear—we are further, not closer, to an ODS reform bill. The conflict between the shipbuilders, martime labor, and the liner companies seems even more pronounced. I am frankly very disappointed.

What I suggest at this point is to sit down among ourselves and arrive at a consensus on a bill—and, if possible, move it to markup. I simply do not see any other way!

Thank you, Mr. Chairman.

Mr. Jones. Mr. Saxton.

STATEMENT OF HON. JIM SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. Saxton. Mr. Chairman, thank you very much.

I would just like to say very briefly that I again appreciate the opportunity to be here with you today to hear testimony from the panel that is to come. I would just like to say again today that I think it's appropriate that these take place to reiterate two things that I and others have said before during review, and others have said it this morning, and that is that through compromise or through whatever mechanism we have that is relative to this subject, action is needed, number one. And number two, there is no free lunch in bringing about the solution to what many of us feel is a very serious problem and situation.

I commend you, Mr. Chairman, and the Committee for advancing this legislation and look forward to a markup in the not too distant future. The message today is to the Administration and to Congress as an institution that we must move ahead on this legislation and other recommendations, such as those of the Commission on Merchant Marine and Defense, that will move us toward a comprehensive maritime policy.

I thank you again for holding the hearing, and I look forward to hearing the witnesses.

Mr. Jones. Thank you, Mr. Saxton.

Does anyone else on the Subcommittee desire to be heard?

[No response.]

Mr. Jones. If not, I ask unanimous consent that the following be included in the record at this point: a statement by the Honorable Mario Biaggi and a joint statement from the following maritime unions: District 1, Marine Engineers' Beneficial Association/National Maritime Union; International Organization of Masters, Mates, and Pilots; and Seafarers International Union of North America.

Any objections?

[No response.]

Mr. Jones. If not, by unanimous consent the statements will be included in the record at this point.

[The prepared statement of Mr. Biaggi follows and the other statement referred to may be found at the end of the hearing.]

STATEMENT BY THE HON. MARIO BIAGGI, A U.S. REPRESENTATIVE FROM NEW YORK, AND VICE CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Today, the Subcommittee on Merchant Marine completes its hearings on liner promotional legislation. Obviously, much work will remain after today's hearing, but at least we have made a start.

Now the question is, "Where do we go from here?" I fear the common response—based on the "lame duck" status of the President—is that "Nothing is going to happen this year." This belief could spell disaster for the American merchant marine.

Let's review where we are now. After eight years, the Administration has agreed to open the subsidy program to currently unsubsidized operators, and it has subscribed to the industry's view that regulatory reforms (such as build foreign and trade route deregulation) are essential. The Administration has also agreed that an adequate shipbuilding base is necessary for our national defense.

There is an old saying that "The devil you know is better than the devil you don't know." I suggest we are better off dealing with this Administration. We cannot afford the luxury of waiting around, wishing and hoping for a savior of the industry to emerge from the Presidential field.

There are any number of rationalizations for neglecting our Nation's merchant marine and shipyard base. It is argued that:

> The Effective U.S.-Controlled (EUSC) fleet and our allies can meet our wartime needs;
>
> We can airlift the necessary troops and arms to a foreign battlefield;
>
> Likely wartime scenarios predict a "90-day war" and sealift would not be necessary in that situation; and
>
> Our allies, such as Japan, can improve their economies and save the U.S. taxpayer money while our Government avoids having to spend money for shipyard subsidies.

I do not agree with the excuses for neglecting our merchant marine—but they have been advanced in the past, and they may very well be accepted by the next President and his advisors. It has taken eight years to bring this Administration around. The next Administration may also take a year, or two, or eight to develop its legislative program for the merchant marine. Can we afford to wait? In the last two years, while we waited, two U.S. liner operators and 14 shipyards have gone bankrupt.

I firmly believe that now is the time to act. All parties must resolve to help move the process along. The Subcommittee is still waiting for the operators to provide the essential information requested at our first hearing over a month ago. Further, the operators have not carried out their commitment to this Subcommittee to meet with labor to discuss the various proposals. Clearly, labor is an interested party, and the failure to meet with them demonstrates a lack of commitment to ensuring prompt enactment of this legislation.

Members of this Subcommittee stand ready to move this legislation, but the industry must do its part by developing a consensus and then marshalling support. Waiting is a serious gamble the industry cannot afford to take.

Mr. JONES. Our first witness this morning is one well known to this Subcommittee, the President, American Institute of Merchant Shipping. It is my pleasure now to welcome back to the Committee Ernie Corrado.

Ernie.

STATEMENT OF ERNEST J. CORRADO, PRESIDENT, AMERICAN INSTITUTE OF MERCHANT SHIPPING (AIMS), WASHINGTON, DC

Mr. CORRADO. Thank you very much, Mr. Chairman. As you said, my name is Ernest J. Corrado; I am President of the American Institute of Merchant Shipping, which is a trade association representing 21 carriers in the U.S. domestic and foreign trades. Most of our members are bulk carriers in the domestic trades, although we do represent two carriers that have charters with the Military Sealift Command and a large liner carrier.

But my testimony today, Mr. Chairman, will deal only with respect to the bulk aspect of the bills before you. As I understand it, there are five ODS reform bills before the Committee. My remarks will relate only to H.R. 3537, the Administration bill, and H.R. 2462, the Jones bill. The reason for this is that we are concerned solely with the provisions that relate to bulk carriers. There are two such provisions in the Administration's bill and one in the so-called Jones bill.

We think that this legislation, as most of it is related to the liners, should at this point be directed to the liners. I would add that we have only one bulk carrier member that has subsidy; whether you should continue on with the subsidy program for bulk carriers that was instituted in the 1970 Act is something that the Congress and the Administration should study, but we don't think that subject should be before you now. It appears to be an ODS reform exercise and as I said, our concern is with the provisions relating only to the bulk carriers therein.

With respect to H.R. 2462, I would say—personally, at least, not as the president of the organization—it's a very unique bill, very interesting. I think the person or persons who drafted it were very clever. It's cleverly drafted. We have spoken for years about trying to meet the military necessity for the U.S.-flag merchant marine, and that's what that bill does. But we couldn't support it as an organization because of the way it's drafted which necessarily must include both liners and bulk carriers, and at this stage of the proceedings we would prefer that the liner bill proceed on its own as a liner bill. We wish the liner people well. If there's a bill that can be put together that is reasonable and that the liner people support, we support it with them. We understand the necessity for them to get help and subsidy, and we would support that.

Another thing about H.R. 2462, it's a little bit abstruse. Human nature abhors that which is difficult to understand. H.R. 2462 is a little bit hard to follow in some places. I would recommend that when the Committee puts together its reform bill that it stick to two or three issues and make it brief and simple.

The two provisions in the Administration's bill that cause us trouble, Mr. Chairman, are in section 6 and in section 601 of the Jones bill. Section 6 amends section 901(b)(1) of the Merchant Marine Act of 1936, as amended, and would change the existing provision that gives a three-year sanitization period for foreign-built or -purchased vessels to come into the preference trades. We are opposed to that change, Mr. Chairman, because our members for the most part have invested between $3 billion and $4 billion in vessels in the U.S. domestic fleet. There is no subsidy money invested in this domestic fleet. The taxpayers have not put any money into it to speak of. If this provision were to be put into the ODS liner bill, it would impact adversely on these substantial investments that our members have made.

I might say that, while I represent most of the bulk carriers, I don't represent them all. There are two lawyers in town who represent the rest of them, but I would say that among the three of us we represent 99 percent of the bulk carriers. All three of us are unanimous in our opposition to the three-year waiting period change for bulk carriers.

As I understand it, the argument of the people in the Administration who are advocating this change is that an entrepreneur can purchase new tonnage inexpensively overseas and bring it into the preference trades, which will then drive out older vessels and what a lot of people choose to call "rust buckets" in the U.S.-flag fleet. There are several problems with that. Right now, there is one member of AIMS that has new tonnage, only several years old, in the trade. There is another carrier with several vessels about four years old, and another carrier with three vessels five years old. Then there are more vessels in the trade between five and ten years of age, and then there are about ten more vessels of one of our members that operate in the trade that are between ten and fifteen years old.

This tonnage that would be brought in without waiting the three-year period would have an unfair advantage. The vessels in there now, built without subsidy, could not compete with the new low cost tonnage. The new existing tonnage is what would be driven out, and the older tonnage is what would stay because the costs of the tonnage are amortized so they could compete. The result would be exactly the opposite of the argument for doing this.

Furthermore, when they talk about "rust buckets," they don't know what they are talking about. There are hardly any rust buckets left in that trade. The trade itself has economically eliminated almost all of the so-called rust buckets. The Ports and Waterways Safety Act of 1972 and the Port and Tanker Safety Act of 1978 have finished the job. In light of these facts, we can't possibly see any justification for doing away with this three-year waiting period, which would clearly impact adversely on the tonnage that is in the trade now, especially the newer tonnage.

In the 1960's, there was some 15 million tons of cargo in these trades; now there's only 3.2 million tons, so the preference cargoes have diminished substantially over the years. The preference trades are already overtonnaged. The follow-on argument of the proponents of eliminating the 3-year waiting period is that it would lower the rate. Anyone in that trade could tell you that now under "fair and reasonable" in section 901(b)(1) the operators are not getting a fair return on cost; it's only a partial return on cost. So frankly, I don't think you could do much more to lower the rate. It's as low as it can get now. Those who would change the three-year waiting period don't seem to understand that.

We feel that there is sufficient tonnage to take care of this trade in the foreseeable future, and we strongly urge that this modification provision not be included. This sprang forth in its pristine form in the 97th Congress in the Maritime Authorization Bill in the Senate, and we have opposed it in every forum available to us since then. So far, it has not been enacted, and for the life of me I cannot see why the Administration, if it really wants an ODS liner reform bill, would put this objectionable provision in its ODS liner reform bill when it knows that the provision is abhorrent to the bulk carriers and could only have the result of raising our objections to the bill.

The second feature in the bill that we object to is tampering with the geographic distribution standard, which is also in section 901(b)(1). Of course, that is the provision that provides that at least 50 percent of the preference cargo has to be divided evenly among the geographic areas. It was decided in the 1970 Act that there were four geographic areas. To do away with the geographic distribution would permit the agencies and departments in the Government to have flexibility that would be inimical to the interests of the U.S.-flag carriers because these Government entities would then jockey the cargoes around for shorter rather than longer voyages, and they could change carriage requirements around so that they could use foreign flags to the detriment of the U.S.-flag carriers.

So, once again, we would urge that the geographic distribution standard in the 1936 Act be retained as it has been since 1954. As I say, we certainly would support any reasonable ODS liner reform bill, but we would ask at this time that the bulk carriers be kept out of it. If the Committee in its wisdom at a later date wants to look at what exists in the ODS program for bulk carriers or to the revitalization or the viability of the bulk carrier industry, it would be helpful and appropriate to do so. God knows, the bulk carriers have their own problems, Mr. Chairman, which are very severe, but different from the liners.

With that I will close, Mr. Chairman, and I thank you very much for the opportunity to appear, and I would be happy to answer any questions that you may have.

[The prepared statement of Mr. Corrado may be found at the end of the hearing.]

Mr. JONES. Thank you, Mr. Corrado. I have two or three questions, and I'm sure that some of the other Members do also.

While the legislation before the Subcommittee deals primarily with the liner segment of the industry, we are seriously concerned about bulk operators. Do you have any suggestions on how we can aid bulk operators?

Mr. CORRADO. Yes, Mr. Chairman. I have to take this in parts, I think.

One problem is that the last vessels that have been constructed for the domestic trades were by the Exxon Corporation, which constructed five within the last five years, and Sea-Land which constructed three within the last three or four years. There are none under construction in U.S. yards now, and there won't be, Mr. Chairman, for a variety of reasons.

One, it's just too expensive in the U.S. yards and the time lag is too great. No entrepreneur is going to invest $50-$55 million for a 35,000 DWT tanker, or $65 to $70 million for a 60,000 DWT tanker or a bulk carrier—when there is a constant threat of Alaskan oil being exported, and you've got divisive issues like CDS payback. Nobody will invest that kind of money under such circumstances. So, the Committee or somebody, sooner or later, has to grapple with the problem of getting new tonnage into the domestic fleet because it's getting older and older with the exception of some units in the Exxon and Sea-Land fleets. There will come a time soon when the fleet will have to be replaced or it will be gone.

So, it can be done, but then, of course, you go the route that the liners have gone, and you have your problems with the shipbuilders. The liners have decoupled themselves from the shipyards. So far, the bulk carriers have not done that, but if you're going to replace tonnage, obviously one of the ways to do it is to get it in a foreign yard. But the existing domestic operators who are there now would have the same objection that they have to the three-year waiting period elimination, because they have invested billions in this trade.

The only way you'll ever be able to build in a foreign yard and bring the vessel into the domestic trade is to do something to equalize the costs of those operators existing in the trade in order to amortize their costs. Of course, they're going to be reluctant to get into this, but that's one way it can be done.

The second thing, Mr. Chairman, is to continue on with the subsidy program, which will require a lot of thought and study, or you go the route which has been suggested of build-and-charter or procure-and-charter. Recently, a fine distinction has been made between build and charter and procure and charter.

But, Mr. Chairman, I would like to get on the record that if you go that route there are various problems. A procure-and-charter program would require an expenditure of approximately $1.2 billion if you consider the vessels that the shipbuilders testified about here, 12 vessels. Interestingly, they never specified what kind, although in the build-and-charter program three years ago that was aborted, they were talking about product tankers.

But where does one come up with $1.2 billion from the Administration today for a build-and-charter program or for a procure-and-charter program? It's just not there with respect to the deficit and the budget priorities. And I submit that there will be even more stringent budgetary and deficit problems in the next Administration.

On top of that, even if you could get that money—and the last time, several years ago, Senator Stevens put aside some $800 million and it was eventually taken out because there were those who did not see that that was the priority for that money—assuming that you got the money and you built the vessels, where would they operate? Well, if you tried to dump them in the domestic trade, the domestic operators would screech because they couldn't compete with them. And if you tried to put them in the foreign trades you would have to produce approximately another $1 billion in order to make the rates equal and acceptable. Such vessels cannot just operate on their own competitively in the foreign trades.

The third thing that I would like to point out is that if you do go the route of build-and-charter or procurement—of course, procurement is if the Government comes up with the money and build-and-charter is if a private entrepreneur does it and then charters to the Government. But I don't see any entrepreneur today coming up with that kind of money for a build-and-charter program—but about 13 years ago there was a build-and-charter program, the last one, and I think it produced about nine tankers. It went through the Armed Services Committee and never came through this Committee, and the Chairman and I were very concerned at the time because it didn't come through the Merchant Marine and Fisheries Committee. So we became involved to make sure that the next program would come through this Committee. But that program was a disaster. There were a lot of press comments about the low and poor quality of the vessels. The vessels were built by two of the most prominent shipbuilding yards in the U.S.; they both ended up in terrible difficulties with the Navy. One went the route of arbitration, and the other sued in the Southern District in Los Angeles, California. Ultimately, both suits were settled, but they involved millions and millions of dollars.

But I would suggest, Mr. Chairman, that if the Committee decides to go the build-and-charter route, that you look into that situation some years ago. I would be happy to help the staff to see if I could find my files on it, but I would recommend that you go to the Armed Services Committee, and you look into that program to see exactly what the problems were and why it didn't work out, because I see severe problems with the build-and-charter route.

Another way to help the domestic industry, Mr. Chairman, the bulk carrier—the unsubsidized part of the industry—you have had witness after witness sit here year after year and say that the name of the game is cargo. Most of the carriage for the bulk carriers in the domestic trade in the United States is from Alaska down to California, Panama, across the Canal, the Gulf, and the East Coast. That trade from the North Slope is going to drop off two years from now, begin to drop off, and it will drop off rather dramatically after that.

You have before your Committee, Mr. Chairman, the problem of the exploration and development of the Alaskan National Wildlife Refuge (ANWR). Now, I realize there are all kinds of problems with the environmentalists and with exploring and developing ANWR aside from providing cargoes for the U.S.-flag merchant fleet. But as North Slope oil decreases beginning two years from now and diminishes for the next five or six years, if there is nothing to replace those cargoes, there will not be that much cargo left in the intrastate and interstate trades in the United States. That will be all for the U.S.-flag bulk fleet. Even though the liner people may not believe it, if the U.S. bulk fleet goes, they will go shortly thereafter because you can't take away big chunks of the industry like the shipbuilders and the bulk fleet and survive just with one segment.

You can't have it both ways, Mr. Chairman. If ANWR is before this Committee now, you can't sit here and say, "We want to help the merchant marine," and then on the other hand choke off one of the few areas of cargo we might possibly have available to us in the future. It is estimated that, if ANWR legislation were to pass next week, it would be 10 years before ANWR came on stream.

So, there's a concrete example of an area before the Committee where you might be able to help the bulk fleet considerably because, as we all know, cargo is a basic necessity.

At any rate, Mr. Chairman, that's kind of a long-winded answer to your question, but those are areas that I see of help to the U.S. bulk fleet, but they will require a lot of work.

Mr. Jones. Thank you.

Since enactment of the 1985 Farm Bill, certain interests in the Great Lakes region have claimed that they have been harmed as a result of increased allocation to U.S.-flag vessels from Food for Peace cargoes and the lack of U.S.-flag service in the Great Lakes. Are these complaints valid? And, if so, how should we address them?

Mr. **Corrado**. Well, Mr. Chairman, as you will recall, there are rare times when there is near-unanimity in the industry, but that was one of the times. We had a coalition of industry interests, and we worked very hard and even drew in the agriculture people, and we reached an agreement with them. They agreed that we would increase the cargo preference on their agricultural commodities to 75 percent in exchange for our dropping the blended credit preference cargoes. That was the deal that was struck, and it seems to me that it comes with a little ill grace several years later to complain about that now. That deal was struck among all of us. The parties should all abide by this compromise agreement and not whine about it now.

As far as the complaint about no U.S.-flag service in the Great Lakes, this is an old complaint, Mr. Chairman. I sat here for years and years and the Great Lakes people trooped into my office, and the argument then was exactly the same as it is now. They always try to solve the problem through the cargo preference vehicle. Mr. Chairman, I would say that the reason there is a paucity of U.S.-flag service in the Great Lakes is the same now as it was then: there are problems. One of the problems is that the Great Lakes are closed for five months of the year. Another problem is that, in competition with the ports on the East Coast, it's about a six-day trip in and another six-day trip out. You don't have to be a genius to see the inefficiencies competitively from that. The third problem is that the configuration of the locks and canals to go in and out of the Great Lakes is so small that it restricts transit to small vessels that are really inefficient in competition with the big vessels today.

Now, those are facts, Mr. Chairman, and they haven't changed in all these years, and I don't think they're going to. It's a problem that the Great Lakes have and that we all have with them, but I don't know how you overcome that. You don't overcome it by producing bills that eliminate the three-year waiting period and hurt the existing carriers—be they liner or bulk.

I think that's my answer to that, Mr. Chairman.

Mr. **Jones**. Thank you, Mr. Corrado.

Mr. Lent?

Mr. **Lent**. Thank you.

First of all, I'd like to welcome Mr. Corrado back to the Committee. I remember his many long years of service to the Committee, and we're always pleased to hear from him.

Mr. **Corrado**. Thank you, sir.

Mr. **Lent**. Mr. Corrado, the Administration's draft proposal, H.R. 3537, as you point out, would eliminate the three-year waiting period before foreign-built vessels may participate in the Government's cargo preference program.

You suggest that 70 vessels would be laid up? I think on page 7 of your testimony you make that claim. How do you come up with 70?

Mr. **Corrado**. Actually, a check with MARAD indicated that there are 28 tankers and 47 tug barge combinations, for a total of 75. At any rate, there would be a substantial title XI exposure.

Mr. **Lent**. Could you outline for the record the capital cost differential in the bulk vessel market—in other words, foreign versus U.S. costs?

Mr. Corrado. I'd have to do that for the record. I would have to ask our members what their capital costs are. That won't be very easy to come up with, Mr. Lent.

[Editor's note.—Information is contained in AIMS letter, dated 10 May 1988, which can be found at the end of the hearing.]

Mr. Lent. Are you suggesting in your testimony that there is sufficient tonnage under the U.S. flag at the current time?

Mr. Corrado. Yes, I am. We just recently had the problem with respect to an oil company that transports its oil through the Panama pipeline saying that, if the pipeline were closed down, we didn't have sufficient tonnage to carry that product through the Canal. I think our answer to that is that yes, there is. There are at least 28 vessels available.

Mr. Lent. Have you or your organization done any demand projections looking down the road, say, 10 years?

Mr. Corrado. No. Our organization wouldn't do that. That would be done by the individual entrepreneur. For the reasons I mentioned before, I'm not sure they're projecting any new building in the next 10 years or so unless present conditions change drastically. No entrepreneur will build as long as CDS payback and the export of Alaskan oil are hanging over his head.

Mr. Lent. Would you expand on your position relative to the proposed elimination of the geographic distribution requirement in the Cargo Preference Act? In other words, does this provision apply equally to both liner and bulk carriers?

Mr. Corrado. Yes, I think it does.

Mr. Lent. Do you have any information on the types and quantities of cargo that would be involved?

Mr. Corrado. I don't have any information as to quantities. But the types are generally agricultural products and AID cargoes. The danger is that if you take away the geographical distribution standard, then the AID and Agriculture Departments and the agencies can snip these cargoes at their discretion without reference to geographic distribution. We had a problem recently with respect to cement. Their job, Mr. Lent, is to get carriage at the lowest possible cost. They want to save money. The U.S.-flag fleet is more expensive than foreign flags so they will try every time they can to put it in the foreign flag. If you take away the geographical distribution standard, it's going to enable them to do that more easily, and that's not in the interests of the U.S.-flag fleet.

Mr. Lent. So in other words it is your opinion, and you're telling the Committee this, that cargoes presently being carried on U.S. vessels would be diverted to foreign vessels if the geographic requirement were eliminated?

Mr. Corrado. Yes, sir, absolutely. It will be an opportunity to divert cargo to shorter hauls and to foreign flags. Yes, sir, that's our objection.

Mr. Lent. Thank you, Mr. Corrado.

Mr. Chairman, I have no further questions.

Mr. Jones. Mr. Anderson.

Mr. Anderson. Thank you, Mr. Chairman.

First, I'd like to welcome Ernie Corrado back today, too.

Mr. Corrado. Thank you, sir.

Mr. **Anderson**. Ernie, is it fair to say that ODS reform, as well as the present ODS system, will not play a positive role in maintaining and strengthening the U.S. bulk fleet?

Mr. **Corrado**. I think it's fair to say with respect to the bills that you have before you, but I don't think I would say that with respect to examining the entire ODS subsidy system for bulk carriers. I wouldn't be prepared to say that. It seems to me, Mr. Anderson, that once you finish your exercise with the liners on ODS reform—and God knows, that's going to be a big enough job—then the next thing, along with your problem with the shipyards, is to see whether you want to continue the ODS program that was established for bulk carriers in the 1970 Act, or whether you want to abandon it and go some other route, or whether you want to strengthen it. But, you know, with ODS reform for liners or for bulk carriers, you still have the problem, Mr. Anderson, of where the money is going to come from. That's something else to consider. That's a big thing.

I don't think that ODS reform for the bulk carriers is the same as it is for the liners, and I think you have to study that separately. I wouldn't even be prepared to speak for my own bulk carrier members, much less some of the other bulk carriers who aren't members of AIMS as to whether or not they would prefer subsidy in the foreign trades for bulk carriage. That's a big subject, and you would have to hear from the whole bulk industry.

Mr. **Anderson**. Well, maybe I shouldn't ask this next question then, Ernie. What can be done to revitalize the United States domestic bulk fleet? And, as a follow-up, would this revitalization help the bulk fleet compete in foreign commerce?

Mr. **Corrado**. Well, there are two different issues involved here, Mr. Anderson. One, if you want to jack up the bulk carriers to compete in foreign commerce, in the foreign trades, of course that would be very difficult without subsidy. They just couldn't do it in competition with the flag of convenience vessels that are carrying the bulk commodities all around the world at maybe a quarter of the cost that it would take a U.S.-flag bulk carrier to do it. They have very low cost Filipino and Pakastani crews and officers of other nationalities; the cost is just so much lower, so the only way you could possibly do it in the foreign trades is if you had some kind of subsidy program. This is just an idea, but instead of a complex subsidy program—and this might even hold true for the liners—why not just take a commodity and a trade and see what it costs to carry that on a foreign-flag vessel, and that's what you pay the U.S. operator?

One of the problems with the subsidy program has been the complexity of it and the stringent requirements.

Now, that's the foreign trade bulk carriers, Mr. Anderson. For the domestic trades, I think I laid out for the Chairman a few minutes ago some of the ways that you could help the domestic trades. As I said, cargo is going to disappear after 1990 once the North Slope production starts to decline. So ANWR, if it could be brought on stream, would not only be a big help to the energy supplies of the Nation, but it would generate cargoes for U.S.-flag tankers that are going to disappear if something isn't done because there isn't the trade in the intrastate and interstate trades in the United States.

The other thing, of course, is that we feel we have a great many regulations and restrictions, both legislatively and from various agencies and departments in the Government. Another thing that might help them is if that could be looked at and some relief might be given there. There is no question that our industry is over regulated.

Mr. ANDERSON. How much foreign commerce private cargo is currently being carried on U.S. bulk vessels?

Mr. CORRADO. I don't know the answer, but I know it's not very much.

Mr. ANDERSON. It isn't very much, is it?

Mr. CORRADO. No. No, sir, for the reasons I said. There are some, but I don't think very many, U.S. bulk vessels in the foreign trades. Most of it is carried by the so-called flag of convenience vessels because they have fairly modern tonnage, a lot of it, and it's carried inexpensively. It's just impossible to compete with that.

Mr. ANDERSON. In your statement you state that we have sufficient bulk tonnage under the U.S. flag. If that's the case, where does our sealift shortage exist as depicted by the Commission on Merchant Marine and Defense?

Mr. CORRADO. Well, the shortage is between bulk and liners. I'm not sure there is so much shortage as there is a need for replacement. You're going to have more ships than you have cargo. Because of some of the things I mentioned earlier, the entrepreneurs aren't building, but it's clear that, unless there is replacement tonnage coming on stream and unless there are cargoes provided and some other aids, what we have is not going to be here five years from now.

Mr. ANDERSON. Thank you, Mr. Chairman.

Mr. JONES. Mr. Saxton.

Mr. SAXTON. Thank you, Mr. Chairman.

Mr. Corrado, a few minutes ago you mentioned the figure of foreign operators being able to transport cargoes at a fraction of what we can in the world trade, relative to American shipping. You mentioned the fact that we need to look at some kind of subsidy program if we're really going to do anything about that.

Is much of that problem created, or what percentage of that problem might be created, by the acquisition cost of capital outlay for ships that you have in the fleet currently?

Mr. CORRADO. Well, Mr. Saxton, a U.S. carrier is required to build in a U.S. yard for operation in the domestic trade. If he operates in the foreign trade he doesn't have to build in a U.S. yard, but his problem there is the operating costs. The operating costs are so much lower. But it would be impossible for an entrepreneur to build a vessel in a U.S. yard and operate it in the foreign trades in the bulk trades because of the huge capital cost difference between the competitor's acquisition in a foreign yard and our acquisition costs in a U.S. yard. And on top of that you have the vast discrepancy in the operating costs which are almost three-quarters less for the foreign-flag bulk operator.

Now, over the years, a company like Sea-Land has purchased its vessels for the most part in a foreign yard and operated in the foreign liner trades, so there is some difference between bulk and liner carriage. But you always have the problem with respect to acquisition costs, if it's a U.S. yard vis-a-vis a foreign yard, or operating costs. These flag of convenience vessels just operate so much less expensively and with much lower capital costs.

Mr. **Saxton**. Thank you. You also mentioned th simple fact that currently you feel we have a fleet which is adequate to carry out the shipping which is necessary relative to the demand to be shipped?

Mr. **Corrado**. For the next few years.

Mr. **Saxton**. Should we be looking at policies that are geared toward increasing the demand and the need for American ships? And, if so, what kind of programs do we need to look at?

Mr. **Corrado**. Well, I think Mr. Lent talked about projections a few minutes ago. I think that when you get into this you have to look to the future. As I say, I think there's adequate tonnage to take care of a crisis like petroleum through the Canal in the next few years, or the preference trades, or the bulk trades in domestic areas. But a few years from now that may not be so. There is not any replacement going on; and, although there are some newer vessels in the trade, more so than most people seem to think, nonetheless there are some older ones, too. And if there isn't replacement, you will end up without the capacity.

But part of the problem, Mr. Saxton, is that an entrepreneur is not going to build in these trades when most of his carriage is in the oil coming from the North Slope and when he's got the constant pressure from the Administration to export the very commodity he's carrying. It just doesn't make any sense to me at all. You know, we just went through an exercise the last three years among the bulk people on the CDS payback, which was a big fight. The industry does this to itself from time to time, all segments of it. My own people were split so I don't want to sit here and say what I thought of the rule that DOT had, but an entrepreneur isn't going to invest that kind of money when he's constantly got to worry about all of these things such as CDS payback and the export of Alaskan oil—to say nothing of the constant attacks on the Jones Act. And before you can project to the future and future building you have to relieve the potential builder of the worry of these things, and I guess you either go one way or the other. You don't relieve him of these pressures and we don't have a U.S.-flag, or else you give him the security and he's interested and you get the cargo and you build. And even then it's going to be difficult.

Mr. **Saxton**. Thank you, Mr. Chairman.

Mr. **Jones**. Mrs. Bentley.

Mrs. **Bentley**. I will let Mr. Coble go first, Mr. Chairman.

Mr. **Jones**. Mr. Coble.

Mr. **Coble**. Thank you, Mrs. Bentley.

Thank you, Mr. Chairman.

Mr. Corrado, the House conferees, as you know, on the maritime trade title, had proposed including protections for the bulk carriers in the maritime title. I am told that that may not fly on the other side.

Number one, let me put this question to you. Would you be opposed to such an inclusion?

Mr. Corrado. Yes, sir, we are opposed to inclusion of the bulk trades in the Trade Bill. We have been from the beginning. And I guess your next question is, why are we opposed?

Mr. Coble. Well, I'm going to give you an alternative.

My next question is, is your opposition founded on the fact that there is adequate protection in place now under current law? Or is there no evidence of instances of unfair trade practices by foreign governments against bulk operators? So, I'll give you a choice; or, if neither of those two addresses it, you may have your third fling at it.

Mr. Corrado. Well, Mr. Coble, I don't think there are unfair trade practices in the international bulk trades, and there is certainly not the climate or the susceptability for unfair practices as there are in the liner trades. The liner trades are really much more set up for discriminatory practices with their conferences and rate structures. I guess the discriminatory practice that you have is that those bulk carriers under foreign flag can carry the trade a lot less expensively and apparently better than we can with our cost problems.

But we were opposed to inclusion of the bulk trades in the Trade Bill because of a simple matter of regulation. Although it's argued that under section 19 of the 1920 Act and the 1984 Shippig Act that bulk is included, over all these years, Mr. Coble, the FMC has never regulated the bulk carriers. They have regulated the liner segment.

I would say, Mr. Coble, we've got such a litany of problems and troubles that the last thing in the world we need is the FMC messing around with us, with all due respect to the FMC and their people. But we really don't need that. We've got the Coast Guard regulating every inch of our vessels, and the EPA and vapor recovery. For example; you can't imagine what we're going through right now with the vapor recovery problem. In the South District of Los Angeles, they came up with an idea of cold ironing. When a vessel pulls up they want the vessel's power shut off completely. It's unsafe, it's uneconomic, it's unbelievable, but we've got dozens of problems like this. I've got a whole list of them that I wrote here. I don't want to bore you by reading them all, but the last thing in the world we need is FMC regulation in the bulk trades, sir.

Mr. Coble. Mr. Corrado, understand that my question was not a hostile one.

Mr. Corrado. No, no. I understand. [Laughter.]

Mr. Coble. In case you misunderstood that.

Mr. Corrado. No, I've never encountered hostility in this room.

Mr. Coble. Thank you, Mr. Corrado.

I have no further questions, Mr. Chairman.

Mr. Jones. Mrs. Bentley.

Mrs. Bentley. Thank you, Mr. Chairman.

Welcome back, Ernie.

Mr. Corrado. Thank you, Mrs. Bentley.

Mrs. Bentley. Of the ships that are laid up that you had listed, the six combination vessels, which ones are they?

Mr. Corrado. I don't know. I'd have to find out for the record which ones they are.

Mrs. **Bentley**. Would you find that out for the record?

Mr. **Corrado**. I think they may be OBO's. I don't know. I'd have to try to find that out.

[Information to be supplied follows:]

Combination Vessels in Lay Up

The six combination vessels in lay up as of August 1, 1987 are as follows: SS *Monterey,* SS *Santa Rose,* SS *United States,* SS *Santa Magdelena,* SS *Santa Maria,* and SS *Santa Mariana.*

Mrs. **Bentley**. I might add to your comments about not needing any more regulation such as that by the FMC. I think it would be very difficult, actually, for the FMC to regulate the bulk trades.

Mr. **Corrado**. Sure.

Mrs. **Bentley**. In fact, an impossibility. We wouldn't even want to try to get into that.

I have no further questions, Mr. Chairman. I may want to submit a couple for the record to be filled in later. Thank you.

Mr. **Jones**. Thank you, Mrs. Bentley.

Mr. Corrado, thank you very much for your visit here this morning. We appreciate your frankness. You made a good witness.

Mr. **Corrado**. Thank you very much, sir. It's a pleasure to be here.

Mr. **Jones**. Our next panel consists of Mr. Phil Grill, Vice President for Government Relations, Matson Navigation Company, and Alan P. Sherbrooke, Totem Ocean Trailer Express.

Mr. Grill, I assume you will lead off? You are recognized.

STATEMENT OF PHILIP M. GRILL, VICE PRESIDENT FOR GOVERNMENT RELATIONS, MATSON NAVIGATION CO., INC., WASHINGTON, DC

Mr. **Grill**. Thank you, Mr. Chairman. Good morning, Members of the Subcommittee. My name is Philip Grill; I am Vice President, Government Relations of Matson Navigation Co. I'd like to thank you, Mr. Chairman, very much for scheduling this hearing. I appreciate the opportunity to be here.

I would like to submit my prepared statement for the record, if I may, and proceed to summarize.

Mr. **Jones**. Without objection, so ordered.

Mr. **Grill**. Thank you, Mr. Chairman.

The sole purpose of my being here this morning is to urge this Subcommittee, in whatever ODS reform package that you may ultimately approve, to incorporate an amendment that would strengthen section 805(a) of the Merchant Marine Act of 1936. This is the section that prescribes the circumstances under which subsidized companies may carry cargo in the unsubsidized domestic trades.

Matson has served Hawaii since 1882. We have a fleet of very efficient vessels that are carrying primarily containerized cargo and automobiles between U.S. Pacific Coast ports and the Port of Honolulu. Since 1970, we've invested over $300 million in U.S. shipyards in vessels and barges to serve this trade. Our total investment in the trade since 1970 has been $500 million. Because we are operating strictly in the Jones Act trade, Matson has received no operating-differential subsidy.

The objective of your series of hearings on ODS reform is to discuss ways to make improvements in the ODS program that will result in a strengthened U.S.-flag liner fleet. That is certainly a goal we all support. But Matson feels very strongly that the subsidized U.S.-flag liner companies should not be able to employ their Government-supported assets in the domestic trades without regard to the impact that these operations would have on unsubsidized, exclusively domestic operators.

Now, section 605 of the Merchant Marine Act permits ODS contractors to carry cargo in the domestic trades, under limited circumstances, provided that a pro rata amount of the ODS that they would otherwise receive is forfeited. However, the subsidized company still cannot carry cargo in the domestic trade under section 605 unless it can first demonstrate under section 805(a) that their proposed domestic service would, number one, not be unfair competition to exclusively domestic operators, and number two, not be prejudicial to the objects and policy of the Merchant Marine Act of 1936.

Although the statutory language of section 805(a) has essentially remained unchanged since its inception in 1936, it has been rendered virtually meaningless by a recent agency decision. So, Matson would be urging you to strengthen section 805(a) in any case, but the strengthening of section 805(a) becomes particularly important in the context of ODS reform.

I have appended to my statement a suggested amendment to section 805(a). It is similar to section 5 of H.R. 3808. This language was developed last summer in discussions between APL, Sea-Land, Totem, and Matson. It was acceptable to all four of those carriers, and my understanding is that it continues to be acceptable to all of those carriers. Essentially, it would do three things.

Number one, it would require applications for written permission to disclose the nature and scope of the operations that are proposed to be conducted in the domestic trades by the subsidized companies.

Secondly, the Secretary of Transportation would be required to consider the impact of domestic operations by subsidized carriers or their affiliates on exclusively domestic companies.

And finally, it would require the Secretary to decide section 805(a) applications not later than 15 months after the application has been filed.

This concludes my statement, Mr. Chairman. I will be happy to respond to any questions that you may have.

[The prepared statement of Mr. Grill may be found at the end of the hearing.]

Mr. Jones. Thank you, Mr. Grill.

In your suggested language you use the terms "unfair competition" and "prejudicial to the objectives and policies of the Act." Do we need to clarify in the bill or by report language what we mean by these terms?

Mr. Grill. Mr. Chairman, the language that you have cited, "unfair competition" and "contrary to the policy and objects of the Act," certainly is rather unclear. Put another way, it leaves a great deal of discretion to the Maritime Administrator or the Secretary of Transportation who is going to be making this decision. But these are terms that have existed since 1936 and have been judicially and administratively interpreted.

Remember that what I am proposing to you is a compromise that was developed between the unsubsidized companies—whose interest, obviously, is to keep the subsidized companies out of the domestic trades—and it also is acceptable to the subsidized companies, who want to get into the domestic trades. So like all compromises, it is not what Matson really wanted to see at the outset. We would like to see something stronger and more clear, but I have suggested a compromise that we feel we can live with. I believe subsidized companies can live with it, as well.

Mr. JONES. As my previous question indicates, I am concerned that the standards are so ambiguous that a Secretary intent on approving a change in service would not be restrained by your language. Would you care to comment?

Mr. GRILL. I believe that you are right. This was part of the consideration that went into the compromise. Essentially, the essence of the compromise is that the Secretary would be required to consider the impact that domestic operations by the subsidized company would have on unsubsidized operators in the domestic trades. That is an improvement over the most recent decision that has come out of the Department of Transportation.

As I said, I think we would like to see it strengthened, but in the spirit of compromise we are willing to accept this language.

Mr. JONES. Mr. Lent.

Mr. LENT. Thank you very much, Mr. Chairman.

Mr. Grill, in your testimony you indicate that section 605 of the Merchant Marine Act of 1936 provides that a subsidized operator must forfeit a portion of its ODS when competing with an unsubsidized operator in the domestic trades. You suggest that this approach still results in an advantage to the subsidized carrier. Is that your position?

Mr. GRILL. Yes, it may well.

Mr. LENT. Well, can you outline for the record what these "inherent advantages" might be? Are they capital? Are they labor?

Mr. GRILL. There are many. If I may just suggest a couple, and perhaps with your permission I could supplement my answer for the record.

First of all, I should start by saying that the fundamental question posed by section 805(a) is that even after subsidy has been forfeited or reduced in accordance with the formula under section 605—even after that—is there unfair competition? The entire premise of section 805 is that there may well be unfair competition after the reduction in subsidy has occurred. It may take several forms.

Number one, it may take the form of what is excess subsidy. By that I mean subsidy that is actually more than what the U.S.-flag subsidized company needs to be put on a par with their foreign-flag counterparts.

It may take the form of what is known—or has become judicially defined—as "residual" subsidy. In other words, even after the subsidy is reduced, does the fact that a company that is coming into the domestic trades will not receive, say, $70 million but will only receive $60 million a year, does this really, as a practical matter, square things between the subsidized company and the unsubsidized company?

I will mention a third area that you are seeing right now in the domestic trades. This is the so-called "mixed services" where a CDS vessel would—in our case, in the case of Hawaii—depart the West Coast port carrying both domestic cargo and foreign cargo. The operator will pay back a pro rata portion of that CDS in return for the privilege of using the CDS ship in the Jones Act trade in competition with the Jones Act operators. But the Jones Act operator has had to buy and finance and pay the debt for 20 years on 100 percent of the cost of its vessel. For the CDS vessel that is operating in the domestic trade, the operator has really only bought half of that vessel because the Government picked up the other half.

So, the company that is operating the CDS ship has really received an interest-free loan from the Federal Government over the long term, say a 20-year term, and they have not had to pay any debt service on that significant capital investment. So, here is another advantage that would still exist, even after the pro rata reduction under section 605.

[The following information was subsequently supplied for the record:]

UNFAIR COMPETITION

In addition to the unfair advantages of excess subsidy, and residual subsidy, there are several additional areas of potential "unfair competition" even after the pro rata reduction in ODS under section 605:

1. An ODS recipient with permission to operate in the domestic trades has an inherent advantage over the exclusively domestic operator in that the ODS recipient has flexibility to shift the emphasis of its operations between the foreign and domestic trades on an opportunistic basis. When cargo volume and rates are high in the foreign trades, the ODS recipient can emphasize foreign service. When cargo volume is low or a temporary rate war is going on in the foreign trades, the ODS recipient can emphasis domestic service. The exclusively domestic operator, which section 805(a) is designed to protect, has no such flexibility. Its vessels are required by law to be built in U.S. shipyards at a cost that makes them non-competitive in the foreign trades. The ODS recipient either has vessels built with the aid of CDS (not available to exclusively domestic operators), or uses foreign-built vessels under the "window" legislation permitting their use by ODS recipients. Foreign-built vessels, however, cannot be used in domestic commerce. Thus, there is no mutuality of opportunity to compete in the other operator's backyard. It is a one-sided advantage in favor of the ODS recipient to the extent that it has CDS-built vessels available for use in the domestic trades.

2. Recipients of ODS who operate CDS-built vessels on mixed foreign/domestic voyages have an unfair advantage over exclusively domestic operators who must use vessels built in U.S. shipyards without CDS. Under the CDS program, the U.S. Government paid approximately 50 percent of the cost of vessels. When CDS-built vessels are used in domestic commerce, section 506 of the Merchant Marine Act requires the operator to pay annually to the Secretary of Transportation that proportion of one twenty-fifth of the CDS paid for the vessel as the gross revenue derived from domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year. The formula is unfair because it does not require the ODS recipient who operates CDS-built vessels to pay interest on the unamortized CDS still in the vessel. It allows the operator an interest-free loan on the 50 percent of the cost of the vessel paid by the U.S. Government, with the principal only to be repaid to the government over the twenty-five year statutory life of the vessel. The exclusively domestic operator, in dramatic contrast, has to pay interest on the full amount of the borrowed purchase price of its vessels.

3. The ODS recipient can "skim the cream" of the higher rated cargoes in the domestics trades, and not concern itself about lower rated cargoes and the smaller ports, both of which are vital to the economies of the noncontiguous domestic trades. The exclusively domestic operator looks to the total ocean transportation

needs of its domestic trade. It sizes and configures its fleets to assure carriage of all cargoes and service to all ports. It cannot continue to provide that full service if it loses the higher rated cargoes to the "cream skimmer."

4. The containerships of today have carrying capacity several times that of the conventional stow vessels in use in 1936 when the Merchant Marine Act was enacted. Only a few of the large containerships of today are needed to serve a domestic trade. Permitting an ODS recipient to enter a domestic trade with large foreign commerce containerships would cause a major overtonnaging of that trade. The consequences of that overtonnaging are far more serious for the exclusively domestic operator than for the ODS recipient. The latter can offset the adverse effect of the overtonnaging with the profits from its subsidized foreign trade operations. Because its vessels built in U.S. shipyards without CDS are noncompetitive in foreign trades, the exclusively domestic operator has no way to offset the adverse effects of overtonnaging.

5. Applications for written permission under section 805(a) usually involve one-way service in the direction that is backhaul for the ODS recipient but headhaul for the exclusively domestic operator. Backhaul cargoes are often priced on an incremental cost basis because the vessels and containers have to return to the voyage origin point with or without cargo. Headhaul cargoes should be priced to recover a profit on fully allocated costs because they determine the size and configuration of the fleet and scope of operations. Hence, written permission to operate in domestic commerce gives the ODS recipient an inherently unfair pricing advantage over the exclusively domestic operator.

Mr. LENT. Well, is your primary concern with the 805(a) decision of the Secretary in the so-called *Aeron* case? What I'm trying to determine is whether your concern is one of perception or of reality. In other words, can you document in any way, in dollars and cents, any adverse impact on Matson or any other operator as a result of the *Aeron* decision?

Mr. GRILL. Since the *Aeron* decision, we have not had any new subsidized companies coming into the Hawaii trade, so I can't document any adverse impact yet on Matson. There is an application that is now pending before the Maritime Administration of American President Lines, which is very interested in serving the Hawaii trade westbound. But I would say nevertheless that the dangers of the *Aeron* decision are very real from the standpoint of the domestic operators.

First, we believe that the *Aeron* decision will be limited to its facts. That is, it will apply only in affiliation cases, as opposed to mixed service cases, such as the type that APL proposes. But this decision does two things. Where it applies, in effect it has administratively repealed the section 805(a) standard of "unfair competition," and it has put in place such an onerous standard that a protestant must satisfy in order to keep the subsidized company out of the domestic trade under the "objects and policy" clause of section 805(a), that it creates a standard that really is impossible—or nearly impossible—to satisfy from the standpoint of the domestic operator who would be the protestant in these 805(a) cases. I think it's a very real danger.

Mr. LENT. I thank you.

Thank you, Mr. Chairman.

Mr. JONES. Mr. Anderson.

Mr. ANDERSON. Thank you, Mr. Chairman.

Mr. Grill, as you know, four major liner companies, including APL, Sea-Land, Crowley Maritime and Lykes Brothers, recently testified before this Subcommittee in support of their unified eight-point ODS reform proposal. Under what circumstances would you adopt the proposal offered by these four carriers?

Mr. GRILL. I believe that these carriers, with the exception of Crowley Maritime, can live with the language that I've submitted to you today. APL and Sea-Land actively participated in the discussions that led up to that language. I can't really speak for these other companies, but I believe that the one that really has the problem, ironically, is a major domestic operator—Crowley Maritime Corporation. I don't think the problem is with APL or Sea-Land.

Mr. ANDERSON. In your proposal you testified that the unsubsidized Jones Act liner operators group was unanimous in recommending to the Maritime Caucus, Chairman Walter Jones, that section 805(a) of the Merchant Marine Act be strengthened.

Could you elaborate on some of the unsubsidized Jones Act liner operators beside your company that haul a large amount of cargo from the ports of Los Angeles and Long Beach?

Mr. GRILL. Because the President of Matson, Mike Wasacz, headed up the Jones Act liner division, you might say, of the Maritime Caucus Advisory Board, we sent out an invitation to all of the domestic operators that had tariffs on file with the Federal Maritime Commission to participate in this Jones Act carrier meeting. That included PRMSA, TOTE, Foss, Puget Sound Freight Lines, and I believe Sea-Land participated in those discussions—I can provide you a more complete list. There were others.

Mr. ANDERSON. Thank you, Mr. Chairman.

[Information to be supplied follows:]

UNSUBSIDIZED JONES ACT LINER OPERATORS GROUP

A meeting of the Jones Act liner operators convened in Matson's Washington, D.C. office on October 15, 1985 to discuss recommendations that the Jones Act segment of the maritime industry could make to the Congressional Maritime Advisory Board. Companies represented at that meeting included Matson Navigation Company, Inc., Western Pioneer, Inc., Totem Ocean Trailer Express, Sause Bros. Ocean Towing Co., Inc., Crowley Maritime Corp., Foss Alaska Lines, Inc., Puerto Rico Marine Mgt., Inc., and Sea-Land Industries, Inc. With the exception of Crowley Maritime Corp., the group agreed that Section 805(a), Merchant Marine Act, 1936 should be strengthened.

All common carriers in the domestic offshore commerce having tariffs on file with the Federal Maritime Commission were invited to participate. Corporations with California offices, in addition to those mentioned previously, which received invitations included American President Lines, Farrell Lines, Inc., Pacific Island Transport Lines, Philippines, Micronesian and Orient Navigation Co., Polynesia Line, Ltd., and South Seas Steamship Company.

Mr. JONES. Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman.

Mr. Grill, if my memory serves me correctly—and this is before your time, I know—the efforts by the subsidized lines to get into this trade go back more than two decades when I think State Steamship at that time was trying to get the Secretary of Commerce involved and to get a waiver for them. I don't quite remember how that one turned out. Do you happen to know that?

Mr. GRILL. No, I don't.

Mrs. BENTLEY. Would you find out for the record? I think Mr. Pfeiffer would probably remember that.

Mr. GRILL. Okay.

[Information to be supplied follows:]

STATES STEAMSHIP HAWAII SERVICE

In the 1950's, the Maritime Administration granted States Steamship Company permission to make 13 calls per year in Hawaii from the U.S. Pacific Coast, pursuant to section 805(a) of the Merchant Marine Act, 1936. States' Hawaii service was westbound only. In 1961, States applied for section 805(a) permission for 13 additional sailings per year. MARAD granted this additional permission subject to the condition that States' cargo carryings be reviewed after three years to insure that these thirteen additional sailings did not result in "unfair competition" or activities that were prejudicial to the "objects and policy" of the Merchant Marine Act. Matson and States then provided cargo statistics to MARAD for these three years. At the conclusion of the three-year term, Matson requested the Maritime Administration for an additional hearing, but the issue became moot when States decided to terminate its Hawaii service altogether.

Mrs. BENTLEY. Do you have any one of the subsidized operators right now serving the Hawaiian trade from the U.S.?

Mr. GRILL. No. We have Sea-Land. Matson and Sea-Land are the two liner operators that serve the Hawaii trade. There are other tug and barge operators, but right now none that are receiving subsidy.

Mrs. BENTLEY. All right.

On the matter of unfairness by a subsidized liner line to go into this trade, how important is the matter of the capital investment? I'd like you to go into even more detail than you did before.

Mr. GRILL. On the CDS issue?

Mrs. BENTLEY. Yes.

Mr. GRILL. It would depend on how old the ships were, how much they cost, and so on. We have calculated what the advantage would be in the case of weekly westbound sailings for this proceeding that we're now in with American President Lines. I believe I know that number—maybe I'd better provide that number for the record. It's several million dollars.

Mrs. BENTLEY. All right.

[Information to be supplied follows:]

CAPITAL INVESTMENT

Matson has calculated that the benefit of the, in effect, interest-free loan from the Federal Government to American President Lines as a result of APL's proposed use of construction-differential subsidy-built ships in the Hawaii trade to be $2,769,000 per year. Under section 506 of the Merchant Marine Act, 1936, in order for CDS-built ships to stop at the State of Hawaii as part of a voyage in foreign trade, the vessel operator must pay annually to the Secretary of Transportation that proportion of one-twenty-fifth of the construction-differential subsidy paid for the vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year. Interest on this pro rata construction subsidy payback should also be paid in order to neutralize this aspect of "unfair competition" vis-a-vis the operators of Jones Act ships built without the aid of construction-differential subsidy.

Mrs. BENTLEY. Now, if APL were allowed in this trade, would they be able to use their foreign-built ships on it?

Mr. GRILL. No, they would not. But that really raises an interesting question. What's happening now is that you have foreign-built U.S.-flag ships freeing up the aging CDS ships for domestic service. By loosening the requirements that must be satisfied in order for subsidized companies to come into the domestic trade, you have a situation and a policy developing that is encouraging aging CDS ships to be dumped into the domestic trades. Companies like Matson are ready, willing, able, and have definite plans to move ahead and continue our domestic shipbuilding program. But we are looking over our shoulder at a potential severe overtonnaging of the Hawaii trade by additional weekly westbound sailings of more aging CDS ships, in addition to the sailings that are already there. That's a tremendous disincentive for Matson to move up and move ahead on its Jones Act domestic ship construction program.

Mrs. BENTLEY. How soon had Matson planned to begin replacing its present vessels?

Mr. GRILL. These plans are part of a continuing vessel replacement program that Matson has had for at least 10 or 15 years. We are now looking at the so-called "next generation" of container ships. We are actively talking with shipyards now about the construction of two large new container ships that would be available for service in the early 1990's.

Mrs. BENTLEY. You mentioned the continual upgrading of your fleet. If my memory serves me correctly, Matson probably started off at the gate in the container business——

Mr. GRILL. In 1958.

Mrs. BENTLEY [continuing]. At about the same time that Sea-Land did?

Mr. GRILL. That's right.

Mrs. BENTLEY. Was it before or right after?

Mr. GRILL. It was right after. Matson likes to say that Matson initiated containerization on the Pacific and Sea-Land initiated containerization on the Atlantic.

Mrs. BENTLEY. Now, on the aging subsidized vessels that you say could be dumped in the trade, what are the ages on those ships today, the ones that were built in this country?

Mr. GRILL. They are approaching 20 years. I know that some of them are older than 15 years. I'm really not sure.

Mrs. BENTLEY. And if——

Mr. GRILL. I'm sorry. I was thinking of the U.S. Lines CDS ships that are now being operated in the Hawaii trade. I don't know what the age of APL's CDS ships is.

Mrs. BENTLEY. Would you supply that for the record?

Mr. GRILL. Yes.

[Information to be supplied follows:]

AGE OF APL AND SEA-LAND CDS-BUILT SHIPS

American President Lines proposes to provide weekly westbound sailings from the U.S. Pacific Coast to Hawaii with five CDS-built ships: three C-9 vessels delivered between October 1982 and March 1983 and two C-8 vessels built in 1971. (It is possible that APL may substitute one C-8 ship built in 1972 for one of the two C-8's built in 1971.)

In addition, Sea-Land is now serving Hawaii weekly westbound from the U.S. Pacific Coast with five CDS-built ships, the *Trader, Navigator, Pacific, Enterprise,* and the *Hawaii* that were delivered in 1973, 1972, 1979, 1980, and 1973 respectively.

Mrs. BENTLEY. And when these ships have exceeded the 25-year mark, what could Matson anticipate in the line of competition from the subsidized lines at that time?

Mr. GRILL. Well, at the end of 25 years they may be totally dedicated and completely operated in the domestic trade, whereas today they may only serve the domestic trade as part of an around-the-world voyage. So, today, their primary emphasis has to be on the foreign trades, and they would come into the domestic trade on a limited and selective basis. But after the 25-year statutory life runs, they would have no further CDS restriction and they could be completely dedicated to carrying domestic cargo.

Mrs. **Bentley**. Do you see the day when, since we're not building new vessels in this country today except for the few domestic ships when and if any contracts are issued for those Jones Act ships, do you see the day when there might be an effort to put the foreign-built ships in this trade to replace the domestic-built ones?

Mr. **Grill**. Yes, I can see that day. We went through a similar bout a few years ago on a closely-related question.

Mrs. **Bentley**. And what would Matson do in that case on replacing its fleet?

Mr. **Grill**. Well, we would be hard-pressed to continue a Jones Act replacement program in the face of having to compete with foreign-built ships.

Mrs. **Bentley**. Thank you, Mr. Grill.

Thank you, Mr. Chairman.

Mr. **Jones**. Mr. Bateman.

Mr. **Bateman**. Thank you, Mr. Chairman. Having had to be elsewhere and not having heard the testimony, I will yield back my time to other Members of the Committee who may have more questions.

Mr. **Jones**. Thank you, Mr. Bateman.

Thank you for being here this morning, Mr. Grill.

Mr. **Grill**. Thank you, Mr. Chairman.

Mr. **Jones**. Our next witness is Mr. Alan Sherbrooke.

STATEMENT OF ALAN P. SHERBROOKE, TOTEM OCEAN TRAILER EXPRESS (TOTE), SEATTLE, WA

Mr. **Sherbrooke**. Mr. Chairman, Members of the Subcommittee, and guests, I am Alan Sherbrooke, attorney for Totem Ocean Trailer Express. I appreciate the opportunity to submit this testimony to the Subcommittee concerning the operating-differential subsidy program and ask that my prepared statement be included in the record.

TOTE is an unsubsidized carrier operating two U.S.-built, U.S.-flag vessels in the trade between the Pacific Northwest and Alaska. TOTE has no objection to subsidizing United States carriers so that they can compete fairly with foreign carriers in international trade. TOTE strenuously objects to allowing those subsidized carriers to use the benefits of their subsidies to compete with the Jones Act carriers which have never had the benefit of subsidy dollars. This is particularly true of the Alaska trade, which is seriously depressed and overtonnaged.

All TOTE asks for is a level playing field, but that means, number one, maintaining section 605 so that carriers will not be subsidized for voyages on which they carry Jones Act cargo, and number two, strengthening section 805 so as to require appropriate safeguards, imposed after notice and an opportunity to be heard, before allowing subsidized carriers to employ nominally unsubsidized vessels or subsidiaries to compete with Jones Act carriers.

Section 605 prohibits payment of subsidy for any voyage on which a vessel carries Jones Act cargo, with certain exceptions to which TOTE does not object. TOTE is concerned that several of the bills before this Subcommittee would weaken section 605 by allowing Federal tax dollars to subsidize carriers moving domestic cargo as a part of an international voyage. In addition, TOTE is extremely concerned that H.R. 3106, which was intended to recodify the 1936 Act, allows vessels to be subsidized if they carry both domestic and international cargo. This would be a substantial and unwarranted change in ODS policy which would unfairly give subsidized carriers a competitive advantage over the Jones Act carriers.

Congress has previously rejected attempts to allow subsidy for voyages on which both Jones Act cargo and international cargo are carried, and TOTE strongly urges Congress to continue to reject such attempts.

Section 805 is intended to assure that, if a subsidized carrier wishes to participate in the Jones Act trade on an unsubsidized basis, it will not be able to use subsidy dollars to compete unfairly with the Jones Act carriers. This is a good statute, but unfortunately, recent decisions have stripped it of most of its value.

TOTE believes that it is critical to restore section 805 to the role it was intended to play. MARAD and the Secretary of Transportation should be required to give real consideration to stability and other practical advantages which guaranteed Federal subsidy payments give the subsidized carriers. They should also carefully consider overtonnaging and the other practical effects of allowing subsidized carriers to participate in domestic trades, particularly those trades which are already overtonnaged.

Second, the requirement of a prior hearing should be strengthened in order to give all interested persons the opportunity to present their views and their evidence on what terms and conditions are appropriate to prevent unfair competition and protect the objects and policies of the 1936 Act.

Third, there is no need to grandfather existing domestic operations of carriers which may in the future apply for subsidy. The safeguards afforded by section 805 are just as important in connection with existing carriers which become subsidized as they are for subsidized carriers which seek to enter a trade.

In June of 1987, TOTE, Matson, and Sea-Land reached a compromise agreement on these three principles. Based on the testimony presented at the March 17, 1988 hearing, however, it appears that Sea-Land no longer supports that compromise. TOTE believes that section 805 should be strengthened along the lines of last Spring's compromise, not weakened; and, in particular, TOTE opposes any efforts to grandfather existing service.

In conclusion, it is vital for this Subcommittee to assure that needed assistance to the international carriers does not also undermine the investments which the unsubsidized carriers and their employees have made in the domestic trades. TOTE believes that the best way to accomplish this is to preserve and strengthen sections 605 and 805 as indicated in this statement and in my prepared statement.

Thank you for this opportunity to present TOTE's views. I would be happy to respond to any questions.

[The prepared statement of Mr. Sherbrooke may be found at the end of the hearing.]

Mr. **Jones**. Thank you very much.

On page 7 of your testimony, you criticize the tests currently applied in section 805 hearings. You say that the Secretary should consider overtonnaging. What tests should we incorporate in section 805? Or are you saying that the mere possibility of overtonnaging should result in disapproval?

Mr. **Sherbrooke**. To answer the last part of the question first, we're not saying that the mere possibility of overtonnaging would automatically result in the denial of an 805 application.

We believe that the Secretary should be directed to consider overtonnaging as one of the factors or one of the elements which he considers in the administrative determination of whether or not a particular proposed operation would result in unfair competition or be contrary to the objects and policies of the Act. We do not believe that statutory language is necessarily required in order to achieve that purpose. We think it could be achieved with Committee report language, and I would be happy to provide such report language if that would be helpful to the Committee.

Mr. **Jones**. I would appreciate your doing so.

[Information to be supplied follows:]

Suggested Committee Report Language

In response to a question asked at the hearing, I offered to provide report language which would satisfy TOTE's concern that the Secretary of Transportation adequately take into account overtonnaging and the practical effects of subsidy when considering applications under section 805. The following report language, together with statutory language such as that provided by Matson at the hearing, addresses these concerns:

"The Committee intends the Secretary to consider carefully the practical short-term and long-term effects on other carriers of a grant of permission under this section, including: (a) the stability and other practical advantages which guaranteed subsidy payments give the subsidized carriers; and (b) the effects of overtonnaging which could occur if subsidized carriers participate in overtonnaged domestic trades. To the extent the Secretary's decision in the *Aeron Marine Shipping Company* case did not consider these factors, that decision is disapproved."

Mr. **Jones**. Mr. Lent.

Mr. **Lent**. Mr. Sherbrooke, on page 8 of your testimony, you note a compromise reached with Matson and Sea-Land. Is that the compromise contained in section 5 of the new bill, H.R. 3808?

Mr. **Sherbrooke**. That would be the compromise contained in section 5(1) of H.R. 3808. It is essentially the compromise that is attached to Mr. Grill's testimony. Subsection 5(2) of H.R. 3808 includes a grandfathering provision.

Mr. **Lent**. Now, does TOTE still support that language as drafted?

Mr. **Sherbrooke**. We can support the language that is appended to Mr. Grill's testimony, yes.

Mr. **Lent**. Okay.

Now, you do note that Sea-Land no longer supports this compromise. Is that correct?

Mr. **Sherbrooke**. That's correct.

Mr. **Lent**. Have you discussed their problems with them?

Mr. **Sherbrooke**. I have not directly, no. I can only infer from their testimony.

Mr. **Lent**. Have you looked at the language in Mr. Davis' bill, section 3 of H.R. 3297? I believe that language is designed to solve your problem.

Mr. **Sherbrooke**. I believe that language contains grandfather provisions for all operations being conducted during 1986. TOTE would oppose grandfathering provisions.

Mr. **Lent**. You oppose grandfathering?

Mr. **Sherbrooke**. We oppose grandfathering provisions, yes.

Mr. **Lent**. We asked Matson this same question. Do you believe that subsidized operators still have an advantage over unsubsidized operators if the unsubsidized operator is able to show that no tax dollars are used in the operation?

Mr. **Sherbrooke**. Yes, I do. I would agree with Mr. Grill's answer to a similar question. I would also call your attention to a hearing that was conducted in 1981 before the Senate Merchant Marine Subcommittee, which addressed similar issues in the 605 context in which there was a proposal to allow APL to provide service to Dutch Harbor. That would have involved a partial subsidy payback under Title 6 and the economics, if you will, of the residual subsidy benefit were discussed in that hearing.

Mr. **Lent**. With the Federal Court decision prohibiting the entry into the Jones Act by subsidized operators—you refer to this in your discussion of section 605, do you believe that it's necessary to have further legislation?

Mr. **Sherbrooke**. We believe that the current section 605 as it exists now is sufficient. Our objection is to those provisions in the bills before this Committee which would change section 605 to weaken it. We are in favor of the status quo on 605.

Mr. **Lent**. Thank you, Mr. Sherbrooke.

Mr. **Jones**. Gentlemen, thank you for your appearance here this morning, Mr. Sherbrooke, Mr. Grill. There being no further——

Mr. **Lent**. Before you wind up the hearing, I have one further unanimous consent request.

Mr. **Jones**. The Gentleman is recognized.

Mr. **Lent**. I ask unanimous consent, Mr. Chairman, that the opening statement of Representative Bentley be placed in the record.

Mr. **Jones**. Without objection, so ordered.

[The prepared statement of Mrs. Bentley follows:]

STATEMENT OF THE HON. HELEN DELICH BENTLEY, A U.S. REPRESENTATIVE FROM MARYLAND

Thank you, Mr. Chairman.

I want to begin by thanking you, Mr. Chairman, for holding this series of very important hearings on these five maritime promotional bills.

Operating-differential subsidies is a very crucial area of concern for the United States merchant fleet, which, as we all know, is in a serious state of decline.

The issue of operating-differential subsidies is sensitive, yet complex. We have heard from the American fleet operators, who seem to have reached unanimity, at least the major operators have, on how to resolve it. My concern in this area is for the small operators. We must not pass legislation that addresses the needs of only the major liner operators. They all need our assistance in giving them the flexibility required to remain competitive with foreign operators.

Competition on the high seas is, indeed, a tough business, more so for the U.S. liners. We need to take steps to protect each and every one of them, because they represent, individually and collectively, an important component of our national defense capabilities.

I am sorry the deep-sea maritime unions elected not to appear before us today. While I appreciate the comments they have submitted for the record, I would have preferred to have heard first-hand their input on this issue. I was also looking forward to having the opportunity to ask them some very germane questions on the employment opportunities of their members, for both the near- and long-term future.

Mr. Chairman, the President's Commission on the Merchant Marine and Defense noted that the seagoing workforce has declined by nearly 60 percent since 1970. The Commission warned that the current employment roll of 28,000 seamen "can no longer provide the critical skills required to mobilize the United States flag commercial fleet (including Military Sealift Command charters), the Ready Reserve Force, and the Military Sealift Command Reduced Operating Status ships during times of national emergency or war."

Without a strong national commiment to support and stabilize our merchant fleet, what is the incentive for today's young men and women to look to the open oceans for reliable employment opportunities?

I well realize that the wages enjoyed by U.S. seamen are higher than most maritime nations. So are the wages of most crafts and positions in all walks of life. We enjoy a very high standard of living in the United States. I, for one, make no apologies for that. Our forefathers pioneered and worked hard to advance their way of life; and they passed that drive and determination on to us, so that we may continue that tradition and, hopefully, make this country—this world—a little better for our children and grandchildren.

Thank you, Mr. Chairman.

Mr. JONES. If there is no further business, the Subcommittee stands adjourned.

[Whereupon, at 11:35 a.m., the Subcommittee was adjourned, to reconvene at the call of the Chair.]

[The following was received for the record:]

PREPARED STATEMENT OF ERNEST J. CORRADO, PRESIDENT, AMERICAN INSTITUTE OF MERCHANT SHIPPING, BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE, APRIL 13, 1988

Thank you, Mr. Chairman, for the opportunity to appear here today to testify on this matter of importance to our members. I am Ernest J. Corrado, President of the American Institute of Merchant Shipping (AIMS), which is a national trade association representing 21 U.S.-flag carriers which own or operate approximately eight million deadweight tons of tankers, dry bulk carriers, and other oceangoing vessels engaged in the domestic and international trades of the United States.

I am pleased to be here today to testify on the operating differential subsidy (ODS) proposals under consideration by this committee. We are, however, going to comment on only two of the proposals contained in two of the various ODS Reform bills. Specifically, the provisions which would amend the Merchant Marine Act, 1936, as amended, to provide immediate eligibility for reflagged vessels for the carriage of government-impelled cargoes under Section 901(b)(1) and the geographic distribution provision of that Act. Since our membership is primarily in the bulk carrier segment of the U.S. merchant marine, we will confine our few comments to aspects of the proposals relating to bulk carriers. As a general proposition, it is our opinion that changes in the ODS Program at this time should be limited to liner vessels.

Our analysis indicates that of the five ODS bills under consideration, only H.R. 3537 and H.R. 2462 contain provisions applying also to bulk vessels. Our remarks will relate only to the applicable provisions in these two bills.

The Administration's draft proposal, H.R. 3537, relates to bulk carriers principally in only two areas which are contained in Section 6 of the draft bill amending Title IX of the Merchant Marine Act of 1936, as amended. These changes to Section 901(b)(1) [46 App. U.S.C. 1241(b)(1)] would: (1) eliminate the three year waiting period requirement before foreign-built vessels may participate in the Government Cargo Preference Program; and, (2) eliminate the geographic distribution requirement for cargo preference. AIMS is opposed to these two provisions in the Administration's proposal. Similarly, Section 601 of H.R. 2462 eliminates the three year waiting period for the carriage of government-impelled cargoes. Consistent with its position over the past seven years, AIMS takes no position with respect to elimination of the three year waiting period for liners. If the liner operators want this three year sanitization period removed for liners, fine. However, over the years we have been opposed to elimination of the three year waiting period for bulk carriers as it would have a destructive impact on the existing bulk carriers in these trades which were constructed in reliance on existing rules.

AIMS is also opposed to the elimination of the geographic distribution requirement for cargo preference since it would permit the unfair allocation of cargoes, upsetting the existing bulk carrier cargo preference carriage with a resultant negative impact on U.S. bulk carriers.

As we understand it, these provisions would provide immediate eligibility for certain reflagged vessels for the carriage of government-impelled cargo without waiting the traditional and statutory three year period if such vessel is less than five years of age on the date of current registry under U.S. flag. In addition, the bill provides that a vessel older than five years but less than ten years of age on the date of current registry may also have immediate eligibility if the Secretary of Transportation so determines, in consultation with the Secretary of Defense, that the particular ship is necessary for the purposes of national defense. In essence, this questionable provision would permit the immediate eligibility of a reflagged foreign-built vessel for the preference trades. We desire to register our complete disagreement with this provision and our total opposition to these sections of H.R. 3537 and H.R. 2462. Of course, we realize that, because of the thrust of H.R. 2462 with respect to a military sealift carrying and training capacity, all vessels, both bulk and liner, must be included. Although we are sympathetic to this unique initiative, we nevertheless question the wisdom of these subsidy proposals under consideration being extended beyond the liner segment of the industry at this time.

This concept of eliminating the three year waiting period is not new and was pushed very hard by the Administration and certain elements on Capitol Hill in the 97th, and subsequent, Congresses. The owners of unsubsidized vessels which traditionally operate in these preference trades and who would be directly impacted by this reflagging and immediate eligibility have expressed their opposition in every forum available in the past.

Contrary to the assertion of the proponents that this concept is necessary to promote a "strong, modern and efficient merchant marine," the proposal will go a long way toward destroying the existing unsubsidized portion of the U.S.-flag tanker and dry bulk fleet. In this connection, it must be mentioned that this immediate cargo preference eligibility would apply to vessels of all types -- dry bulk and liquid carriers as well as liners. As mentioned previously, our testimony today is specifically with respect to dry and liquid bulk carriers. We do not want this three year waiting period elimination applying to these vessels. As to the elimination of this three year waiting period for liner vessels, we take no position. The possible effects of this legislation as to tankers, where the investment now verges on $4 billion, as well as dry bulk carriers is considerable. It would, in effect, permit reflagged foreign-built tankers and bulk carriers obtained in today's depressed bulk market to compete on a head-to-head basis in these preference trades with U.S. tankers and bulk carriers which have been built at full American costs and for which the preference trades constitute a major fall back market when oil cargoes temporarily diminish, because of the cyclical aspects of the market or are not available at all.

Our opposition to the elimination of the three year waiting period has been based over the past years on several basic factors.

1. There is an adequacy of U.S.-flag tankers and bulk carriers in the preference trades which argues against broadening of the supply by introducing reflagged foreign built vessels into these U.S. trades. The world market for both dry bulk carriers and tankers has been extremely depressed for some years now, resulting in bargain prices and in a high level of lay-ups and scrappings. Any newly acquired vessel would be virtually unable to compete in the world market under the U.S. flag, with higher operating costs; such foreign-built vessels would, of course, be ineligible for the domestic trade, therefore, the only possible market would be the preference trades.

2. Demand for tankers in the U.S. preference trades is limited. The P.L.-480 grain trades declined from over 15 million tons in the early 1960's to 3.2 million tons in 1980, and remained at that level through the end of fiscal 1985. As a result of the agriculture/maritime cargo preference compromise, the 1986-1987 preference year was 5.4 million metric tons, with the U.S. share 3.2 million metric tons. A reasonable estimate of current demand in the portion of the P.L.-480 trade for which tankers are eligible is approximately 300,000 deadweight tons (DWT).

3. The supply of U.S.-flag tankers for the U.S. preference trades is more than adequate to meet demand. In this connection, Maritime Administration projections show a large surplus of tankers most suited to the preference trades in the 40,000-99,000 DWT category, with 1,841,200 DWT in surplus, rising to 2,408,800 DWT in surplus in 1990, assuming that conditions remain constant.

4. Permitting reflagged vessels to become immediately eligible for the preference trades will displace American-flag vessels which were built at full American costs and which would be unable to offset the competitive advantages of ships that can now be acquired at greatly depressed prices. It seems clear beyond question that unsubsidized vessels cannot possibly compete with vessels where capital costs are far less, whether because of subsidy or foreign construction.

5. The resulting displacement of U.S.-built unsubsidized vessels would jeopardize the Title XI mortgage guarantees. Our survey indicates that approximately 70 tankers and bulk carriers would be impacted by this reflagging and immediate eligibility proposal with a consequent Title XI exposure of approximately $700,000,000.

With respect to lay-up of our fleet, as of October 1, 1987 of a private fleet of 453 deep ocean vessels, 84 ships are laid up, broken down as follows: 6 combination vessels, 50 dry cargo vessels, and 28 tankers.

Just a few words, Mr. Chairman, about the provision in H.R. 3537, the Administration's bill, to eliminate the geographic distribution requirement in the Cargo Preference Act. Section 901(b)(1) of the Merchant Marine Act, 1936, as amended, provides for the "fair and reasonable" participation of U.S.-flag commercial vessels in such cargoes by geographical areas.

This geographical area distribution provision has the purpose of assuring that the 50% cargo preference requirement is not met by the carriage of cargoes to only one geographic region or on shorter rather than longer hauls.

The Administration's proposal to eliminate the requirement that cargoes be allocated by geographic areas would permit such inequities as filling the 50% quota entirely with the shortest voyages possible, for example from the U.S. Gulf Coast to the Caribbean. Without the distribution requirement, cargoes could be allocated to one or more geographical areas to the exclusion of other areas or the requirement could be filled by foreign-flag rather than U.S.-flag vessels.

Because of the mischief wrought by this proposal, Mr. Chairman, we must oppose it. We urge that this vexing proposal not be included in any ODS initiative which the Committee might decide to advance. For the life of me, I cannot see why such a provision should be in any ODS liner reform bill.

This concludes our modest comments, Mr. Chairman. I would be please to answer any questions which the members may have.

American Institute of Merchant Shipping
1000 16th Street, N.W., Suite 511, Washington, D.C. 20036-5705
Telephone (202) 775-4399 Telex 89424 AIMSHIP WSH

May 10, 1988

COPY

The Honorable Norman F. Lent
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Lent:

At the April 13, 1988 hearing before the House Merchant Marine and Fisheries Committee on operating differential subsidy (ODS) reform, you asked several questions requiring answers for the record. The questions that I have answered in the transcript are generally as follows:

1. You questioned the figure of approximately 70 vessels which would have Title XI exposure in the event of vessels coming into the trade because of elimination of the three year waiting period for government-impelled cargoes. The Maritime Administration indicates the following breakdown of vessels in the cargo preference trades.

Dry Cargo Vessels -- 19
Liners -- 97
MSC Charters -- 29 (No 3-year waiting period)

(It is noted that the above numbers cover vessels which may only carry 1,000 tons per year of cargo preference cargoes. Nevertheless, these vessels are counted even though the carriage is de minimis.)

Tugs and Barges -- 47
Tankers -- 28
MSC Charters -- 24 (No 3-year waiting period)

The total of all the vessels involved is approximately 243, but many of these are not impacted by the three-year waiting period, such as MSC charter vessels and vessels that were built or procured foreign during the one year window. Counting 28 tankers and 47 tug barges, there would be a total of approximately 75 vessels susceptible to Title XI exposure.

2. You asked whether I could outline for the record the capital cost differential in the bulk vessel market, i.e., foreign vs. U.S. costs.

As I indicated at the hearing, these figures are not easy to come up with because of a reluctance of the operators to set out publicly their capital costs. Set out below are pertinent foreign vs. U.S. costs.

A. Foreign Built Vessels

Foreign Built New Panamax

60,000 DWT (new) built to U.S.-flag specifications -- $22-23 million.

5-Year Old Foreign Built

$14 million (plus $2-3 million for reflagging) -- $16-17 million total.

10-Year Old Foreign Built

$10 million ($2-3 million for reflagging) -- $12-13 million total.

A 35,000 DWT foreign-built, new, 5 and 10 year old vessel, would be about two-thirds of the above amounts.

B. U.S.-Flag Vessels

Apex Marine -- U.S.-flag (60,000 DWT), built approx. 4 years ago under the one-year window, resold just now from U.S-flag to U.S.-flag (which makes the figure valid), for $22 million.

A 60,000 DWT, U.S.-flag built in the U.S. today, would cost between $65-70 million.

A 35,000 DWT U.S.-flag vessel would cost today between $50-55 million.

These figures show the cost differential between 60,000 DWT and 35,000 DWT dry bulk carriers.

Sincerely,

Ernest J. Corrado

Ernest J. Corrado
President

EJC:hi

STATEMENT
OF
PHILIP M. GRILL
VICE PRESIDENT, GOVERNMENT RELATIONS
OF
MATSON NAVIGATION COMPANY, INC.
TO THE
SUBCOMMITTEE ON MERCHANT MARINE
MERCHANT MARINE AND FISHERIES COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
REFORM OF THE OPERATING-DIFFERENTIAL SUBSIDY PROGRAM
(H.R. 1088, H.R. 2462, H.R. 3297, H.R. 3537, H.R. 3808)
April 13, 1988

Mr. Chairman and Members of the Subcommittee, I am Philip M. Grill, Vice President, Government Relations, of Matson Navigation Company, Inc.. The purpose of my testimony today is to urge the Subcommittee to strengthen the provisions of Section 805(a) of the Merchant Marine Act, 1936 as part of any legislative operating-differential subsidy (ODS) reform program.

Before discussing this issue further, I would like to briefly describe Matson's operation. Matson has served Hawaii since 1882. Matson operates an efficient fleet of container and container/trailer vessels carrying primarily containerized cargo and automobiles between U.S. Pacific Coast ports of Los Angeles, Oakland, Portland and Seattle and Honolulu, in regularly scheduled service. Cargo destined for the Neighbor Islands of Hawaii, Kaui and Maui is transshipped in Honolulu from the line-haul vessels to two Matson container barges and is delivered weekly to four Neighbor Island ports. Since 1970 Matson has invested over $300 million in vessels and barges, built in United States shipyards and a total investment of $500 million in the U.S. Pacific Coast/Hawaii trade. Since Matson's Hawaii service operates exclusively in the domestic trade, we receive no operating susbsidy.

The bills which are the subject of today's hearing share the common objective of reforming the operating subsidy program so as to strengthen the U.S.-flag liner fleet -- a goal we all support. Matson believes, however, that U.S.-flag liner operators utilizing the new, more advantageous subsidy system should not employ their government supported assets to adversely impact on existing unsubsidized domestic services.

Currently, Section 605 of the Merchant Marine Act, 1936 permits ODS operators to carry cargo in the dometic trade, in competition with unsubsidized U.S.-flag operators, under certain limited circumstances, provided that a prorata portion of ODS is forfeited. Recognizing the inherent advantage that a subsidized operation may have over unsubsidized vessels (even with a prorata subsidy reduction) a subsidized operator may not carry domestic cargo under Section 605 unless he can first demonstrate under Section 805(a) that the proposed domestic service (1) would not result in unfair competition to persons operating exclusively in the coastwise or intercoastal service and (2) would not be prejudicial to the objects and policy of the Merchant Marine Act, 1936. Although the statutory language of Section 805(a) has remained unchanged since the inception of the Merchant Marine Act in 1936, it has been rendered almost meaningless, by a recent agency decision, in cases where a subsidized carrier has sought permission to affiliate with a domestic operator. Matson would, therefore, urge the Subcommittee to strengthen Section 805(a) even in the absence of a legislative ODS reform effort, but the benefits of ODS reform accruing to subsidized U.S.-flag carriers make the need to strengthen Section 805(a) even more pressing.

DISCUSSION

More specifically, Section 805(a) makes it unlawful for the Secretary of Transportation to pay operating-differential subsidy to contractors if they or their corporate or individual affiliates own, operate or charter, or have any pecuniary interest in, vessels engaged in domestic intercoastal or coastwise service, without the written permission of the Secretary. The statute requires denial of applications for written permission if the Secretary finds that approval will result in "unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service" or that it would be "prejudicial to the objects and policy" of the Act.

Section 805(a) also provides that it shall be unlawful for any subsidy contractor or affiliate to divert, directly or indirectly, any moneys, property, or other thing of value, used in foreign trade operations, for which a subsidy is paid, into any coastwise or intercoastal operations.

Matson has an exclusively domestic liner service in the carriage of cargo between ports on the U.S. Pacific Coast and ports of the State of Hawaii. Other operators have exclusively domestic liner services in the Hawaii, Alaska and Puerto Rico trades. All face the threat of competition by operating-differential subsidy contractors or their affiliates which is potentially unfair or prejudicial to the objects and policy of the Merchant Marine Act. Since the 1970 amendments to the Merchant Marine Act extended operating-differential subsidy to bulk carriers, exclusively domestic liquid or dry bulk carriers face the same threat. Matson's President, Michael S. Wasacz, recently represented the Jones Act liner operators as a member of the Congressional Maritime Caucus Advisory Board. The unsubsidized Jones Act liner opertors group was unanimous in recommending to the Maritime Caucus Chairman Walter Jones that Section 805(a) be strengthened.

The need to strengthen and clarify Section 805(a) is largely the result of a December 1984 decision of the Secretary of Transportation in Docket No. S-724, Aeron Marine Shipping Company, et al. That decision rendered Section 805(a) virtually meaningless by holding that:

(1) There can be no "unfair competition" in the absence of diversion of subsidy funds to the domestic trades.

(2) It is not necessary for operating subsidy applicants to disclose the nature and scope of operations they propose to conduct in the domestic trades, or even which domestic trade or trades will be served.

(3) Once operating subsidy applicants have shown that there will be no diversion of subsidy funds, the burden shifts to the protestants to establish prejudice to the objects and policy of the Act.

(4) Adverse impact on exclusively domestic operators of the entry of operating-differential subsidy contractors or their affiliates is irrelevant. The only relevant consideration is the long range impact on the level of service in the trade in question.

As previously mentioned, Section 805(a) specifically provides that it shall be unlawful for any operating-differential subsidy contractor or affiliate to divert any money or other thing of value used to support foreign trade operations, for which a subsidy is paid, into the coastwise or intercoastal trades. The logical interpretation of the Section 805(a) requirement that applications for written permission be denied if the Secretary finds that approval will result in "unfair competition" is that "unfair competition" means something other than diversion of subsidy funds to domestic trades. There is no need to declare "unfair" that which has already been declared unlawful. The Secretary's decision in Aeron Shipping Company, therefore, effectively repeals Section 805(a)'s prohibition against "unfair competition" by limiting it to unlawful diversion of operating-differential subsidy funds into the domestic trades, when a subsidized operator seeks to affiliate with a domestic carrier.

The present policy of the Maritime Administration/ Maritime Subsidy Board in affiliation cases to accept blanket applications for service in any and all domestic trades without requiring disclosure of even a general plan of operation, makes it impossible for a protesting domestic carrier to sustain its burden of proof to establish that this future unspecified activity will cause unfair competition or prejudice to the objects and policies of the Act. Without having some idea of the proposed domestic operations, it is impossible for a protestant to assess or prepare a showing of the extent to which its ability to continue operations will be impaired. Yet, even if an unsubsidized protestant could sustain its burden in proving that it would be driven out of business or forced to curtail service, that would not be sufficient to establish prejudice to the objects and policy of the Act under the Secretary's decision. Under Aeron Shipping Company the Secretary requires protestants to prove that entry by an operating-differential subsidy contractor into the domestic trades through its affiliate will have long-term adverse impact on the availability of shipping services in the trade. That is an impossible burden of proof because it involves long-range forecasting of the actions of other parties.

Matson suggests, therefore, that Section 805(a) be amended in accord with an agreement reached several months ago between American President Lines, Sea-Land, TOTEM Ocean Trailer Express, Inc., and Matson. The specific language of this compromise is set out in Section 5(1) of H.R. 3808 and is also appended to this statement.

This amendment to Section 805(a) would:

-- Require applications for written permission to disclose the nature and scope of operations proposed to be conducted in domestic intercoastal or coastwise service;

-- In a Section 805(a) hearing, require the Secretary of Transportation to consider the impact of domestic operations by subsidized carriers or their affiliates on carriers operating exclusively in domestic intercoastal or coastwise service; and

-- Require the Secretary to decide Section 805(a) applications for written permission not later than 15 months after the application is filed.

Matson feels strongly that the $500 million which it has invested in the Hawaii trade since 1970 (without the benefit of government subsidy payments) is a highly relevant consideration which should not be ignored by the Secretary in decisions which will establish whether, or to what extent, subsidized companies will be allowed to compete with Matson and significantly impact Matson's sizeable investment and commitment to the Hawaii trade.

Thank you for the opportunity to present the views and concerns of Matson Navigation Company.

STATEMENT ON BEHALF OF
TOTEM OCEAN TRAILER EXPRESS, INC.
BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE
UNITED STATES HOUSE OF REPRESENTATIVES
CONCERNING
THE OPERATING-DIFFERENTIAL SUBSIDY PROGRAM

April 13, 1988

Mr. Chairman, members of the Subcommittee, and guests: I am Alan Sherbrooke, attorney for Totem Ocean Trailer Express. I appreciate the opportunity to submit this statement to the Subcommittee concerning the operating differential subsidy program.

TOTE applauds the efforts to strengthen the United States merchant marine, which is so important to the nation's economy and its defense, but it is also important to accomplish this objective in ways that do not allow the international carriers to use the taxpayers' subsidy dollars to compete with TOTE and the other Jones Act carriers.

TOTE's Role in Alaska

I would like briefly to describe TOTE and to describe what carriers are allowed to enter the Alaska trade. TOTE is an unsubsidized carrier operating two U.S.-built, U.S.-flag vessels in the trade between the Pacific Northwest and Alaska. TOTE's vessels have been built and operated without single dollar of subsidy.

TOTE has invested substantial private capital at substantial risk in order to provide high quality transportation for Alaskans. TOTE did not earn a profit in its first five years of operation. TOTE's investment in the Alaska and Puget Sound economies has created approximately 320 new jobs of which 25% are sea-going labor, 51% are employees in the States of Washington, and 24% are employees in the State of Alaska. Additionally, 73 trucking employees (working for separate independent motor carriers) are dedicated exclusively to picking up and delivering TOTE's cargo in the lower 48 and Alaska.

Need for Separation of Subsidized and Unsubsidized Carriers

TOTE has no objection to subsidizing United States carriers so they can compete fairly with foreign carriers in international trades. TOTE strenuously objects to allowing those subsidized carriers to use the benefits of their subsidies to compete with the Jones Act carriers, which have never had the benefit of subsidy dollars. All TOTE asks for is a level playing field, but that means: (1) not allowing the subsidized international carriers to receive subsidy for voyages on which they carry Jones Act cargo; and (2) requiring appropriate safeguards, imposed after notice and an opportunity to be heard, before allowing subsidized carriers to employ nominally unsubsidized vessels or subsidiaries to compete with the Jones Act carriers.

The Alaska trade exemplifies the need to prevent subsidized carriers from entering Jones Act trades. The Alaska trade is seriously depressed and overtonnaged. Within the last two years, one of the four major carriers filed in bankruptcy and has been liquidated. The Maritime Administration has paid millions of dollars to satisfy its loan guarantee obligations under Title XI on behalf of that carrier.

It makes no sense to allow subsidized carriers to enter and increase the capacity in such a market. It would be particularly frustrating to TOTE, which has operated without subsidy for twelve years to see its tax dollars flow to a competitor.

Two key provisions of the 1936 Act are intended to assure fairness between subsidized and unsubsidized operators. Section 605 prohibits payment of subsidy for any voyage on which a vessel carries Jones Act cargo, subject to certain exceptions to which TOTE does not object. Section 805 prevents subsidized carriers from entering the Jones Act trades through nominally unsubsidized vessels, subsidiaries, or other affiliates without a prior hearing and findings by the Secretary that entry will not result in unfair competition or be prejudicial to the objects and policy of the 1936 Act. Both of these key provisions are weakened in the legislation before this subcommittee.[1]

The Need to Preserve and Strengthen Section 605

Section 605 assures that subsidized vessels may not participate in Jones Act trades. As the courts have held, Section 605 provides that if a vessel is carrying both international cargo and Jones Act cargo, that voyage cannot be subsidized.[2] Thus when APL sought to transport cargo between Dutch Harbor, Alaska and the Pacific Northwest as a part of its service between the Pacific Northwest and the Far East, the court ruled that Section 605 prohibited such service. As the court stated, Section 605 "says, and was intended to say, that subsidized American lines shall not compete on coastwise routes (such as that between Dutch Harbor and the [United States Pacific Northwest]) with unsubsidized domestic carriers."[3]

TOTE is concerned that several of the bills before this subcommittee would weaken Section 605 by allowing federal tax dollars to subsidize carriers moving domestic cargo as a part of an international voyage.[4] In addition, TOTE is extremely concerned that H.R. 3106, which was intended to re-codify the 1936 Act, allows vessels to be subsidized if they carry both domestic and international cargo.[5] This would be a substantial and unwarranted

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[1] TOTE has not had an opportunity to review draft legislation embodying the eight part proposal discussed in general terms in the joint statement of W. James Amoss, Jr., Leo L. Collar, Robert L. Hintz, and Timothy J. Rhein before this Subcommittee on March 17, 1988. TOTE therefore reserves comment on those proposals.

[2] Sea-Land Service, Inc. v. Dole, 596 F.Supp. 1143 (D.D.C. 1984).

[3] 596 F.Supp. at 1147.

[4] Section 2(3) of H.R. 1088 (page 4, line 7) allows subsidy if a vessel "is engaged in foreign commerce." Arguably, this means that a vessel engaged in both foreign and domestic commerce on the same voyage would be eligible for subsidy. This is contrary to current Section 605. To remain consistent with Section 605, this provision of H.R. 1088 should allow subsidy only if a vessel is engaged exclusively in foreign commerce, subject to current exceptions for, for example, 'round the world voyages.

Section 202 (a)(1)(C) of H.R. 2462 (page 5, lines 17-18) contains similar language and also should be changed to allow subsidy only if the vessel is engaged exclusively in foreign commerce.

[5] Section 53305(a) provides that subsidy cannot be granted "for the operation of a vessel on a voyage on which the vessel is engaged only in coastwise commerce." (Emphasis added.) Thus subsidy

Continued on next page

change in ODS policy which would unfairly give subsidized carriers a competitive advantage over the Jones Act carriers.

Congress has previously rejected attempts to allow subsidy for voyages on which both Jones Act cargo and international cargo are carried. During consideration of the omnibus maritime legislation of the 96th Congress (H.R. 4769) APL attempted to include an amendment which would have permitted it to serve Alaska. This attempt was defeated in the House Merchant Marine and Fisheries Committee. During the summer of 1981, APL sought to have the fiscal year 1982 maritime authorization bill amended so as to permit APL to serve Dutch Harbor, however APL's proposed amendment was not offered or adopted. Later in 1981, a bill, S. 1682 was introduced which would have amended sections 506 and 605(a) of the 1936 Act so as to permit APL to serve Dutch Harbor. A hearing was held on this bill on October 16, 1981[6] but no action was taken. TOTE strongly urges Congress to continue to reject attempts to allow subsidized vessels to serve Jones Act trades.

The Need to Strengthen Section 805

If a subsidized carrier wishes to participate in a Jones Act vessels without subsidy or by forming a subsidiary which would operate without subsidy) Section 805 is intended to assure that it will not be able to use subsidy dollars to compete unfairly with the Jones Act carriers. That section requires notice and a hearing before a subsidized carrier (or anyone affiliated with a subsidized carrier) can enter a Jones Act trade. Furthermore, it strictly prohibits continued subsidy payments if entry of the subsidized carrier would constitute unfair competition or be contrary to the objects and policy of the 1936 Act. This is a good statute, but unfortunately recent decisions have stripped it of most of its value.

Under these decisions, the subsidized carrier must prove that it will not divert its subsidy; but this can be done simply by setting up separate corporations and preventing commingling of funds. Once the subsidized carrier has met this minimal requirement, which is mainly a formality of corporate organization, then the subsidized carrier will be allowed to enter the trade and compete with the unsubsidized carriers unless the unsubsidized carriers prove that (1) existing carriers will be driven out of the trade; (2) no new entrants will take their place; and (3) as a result there will be insufficient capacity in the trade in the long run. This is of course almost impossible to prove.

TOTE believes that it is critical to restore Section 805 to the role it was intended to play: Assuring that subsidized carriers will not be able to use the benefits of their subsidies in ways that compete unfairly with the unsubsidized carriers or that would be contrary to the objects and policy of the Merchant Marine Act.

TOTE believes that MARAD and the Secretary of Transportation should be required to consider the effects of a subsidized carrier's

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would ne available for a voyage on which the vessel carried 99% domestic cargo and 1% foreign cargo. This turns current Section 605 on its head. As noted above, current law is that subsidy cannot be paid if the vessel carries any domestic cargo.

[6] Hearing Before the Subcommittee on Merchant Marine of the Committee on Commerce, Science, and Transportation on S. 1682, United States Senate, 97th Cong., 1st Sess. Serial No. 97-78 (October 16, 1981).

proposed domestic service on unsubsidized service, in light of the policy objectives of the 1936 Act. This would include giving real consideration to the stability and other practical advantages which guaranteed federal subsidy payments give the subsidized carriers. It also would include careful consideration of overtonnaging and other practical effects -- both short term and long term -- of allowing subsidized carriers to participate in domestic trades, particularly those trades which are already overtonnaged.

Second, the requirement of a prior hearing should be strengthened, in order to give all interested persons the opportunity to present their views and their evidence on what terms and conditions are appropriate to prevent unfair competition and protect the objects and policies of the 1936 Act.

Third, there is no need to "grandfather" existing domestic operations of carriers which may, in the future, apply for subsidy. The safeguards afforded by Section 805 are just as important in connection with existing carriers which become subsidized as they are for subsidized carriers which seek to enter a trade.

In June of 1987, TOTE, Matson, and Sea-Land reached a compromise agreement on these three principles. Based on the testimony presented at the March 17, 1988 hearing, however, it appears that Sea-Land no longer supports the compromise which it agreed to last year. Instead, the eight part proposal, like the bills already before this Subcommittee, substantially weaken Section 805.[7] TOTE believes that Section 805 should be strengthened along the lines of last spring's compromise, not weakened, and in particular, TOTE opposes any efforts to grandfather existing service.

Conclusion

It is vital for this Subcommittee to ensure that needed assistance to the international carriers does not also undermine the investments which the unsubsidized carriers and their employees have made in the domestic trades. Congress must assure that federal tax dollars are limited to the international trades and that the international carriers will not use subsidy dollars to compete with the unsubsidized carriers providing service to Alaska, Hawaii, and Puerto Rico. TOTE believes the best way to accomplish this is to preserve and strengthen Sections 605 and 805 as indicated in this statement.

Thank you for this opportunity to present TOTE's views.

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[7] Section 4(2) of H.R. 1088 (page 15, lines 5 - 14) would grandfather domestic service provided in 1986, as well as service provided by replacement vessels under construction prior to January 1, 1987.

Section 205 of H.R. 2462 (page 7, lines 12 - 18) eliminates the requirement of a prior hearing under current Section 805, and also eliminates (a) the prohibition on using the benefits of subsidy to enhance domestic operations and (b) the requirement that domestic operations not result in unfair competition and (c) the requirement that domestic operations not be contrary to the objects and policies of the 1936 Act.

Section 623(a)(5)(B) of H.R. 3297 (page 9, lines 1 - 4) and Section 3(3) of of H.R. 3297 (page 23, lines 6 - 9) contain grandfather provisions similar to those in H.R. 1088.

Section 1407 of H.R. 3537 (page 17, lines 7 - 11) also contains grandfather provisions similar to those in H.R. 1088.

Section 5 of H.R. 3808 (page 4 line 8 - page 5 line 2 contains grandfather provisions for certain tug and barge operations.

RECORD STATEMENT OF DISTRICT 1, MARINE ENGINEERS' BENEFICIAL ASSOCIATION/NATIONAL MARITIME UNION; INTERNATIONAL ORGANIZATION OF MASTERS, MATES, AND PILOTS; AND SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA ON H.R. 3537 AND RELATED LEGISLATION, BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE, 13 APRIL 1988

In May 1986, a single statement on the subject of reform of the Operating-Differential Subsidy (ODS) program was presented to this Subcommittee by the four largest maritime labor organizations: the National Marine Engineers' Beneficial Association; the International Organization of Masters, Mates and Pilots; the Seafarers International Union of North America; and the National Maritime Union. At that time, the Subcommittee on Merchant Marine was considering five draft bills on this subject. Regrettably, in the nearly two years that have elapsed we can detect little or no progress in resolving the differences then represented by those five bills. The Subcommittee is again examining five widely divergent pieces of legislation, and we can detect no real consensus among the liner companies. For our part, however, we are pleased to again submit a single statement of our views on this matter, noting only an organizational change of a merged District 1-MEBA/NMU.

To our knowledge, discussions between the liner operators on the subject of ODS reform have been occurring since early 1985. As we explained in our statement of May 1, 1986, our unions have participated in those discussions only twice, both in April 1986. Since that time we have not been invited by our companies to review any substantive ODS reform proposal which has broad-based industry support. We point this out to underscore a concern already expressed by a Member of this Subcommittee at the hearing on March 17, 1988. Nevertheless, even though we have not been as directly involved in the process to date as the liner companies, we assure you that we are committed to the enactment of ODS reform legislation which is fair to all parties, enhances the competitiveness of American liner vessel operations and creates jobs for American maritime workers.

As we noted, there is still no comprehensive, consensus legislation. Consequently, we do not believe it will be helpful or productive to comment at this time on each component of each proposal. Rather, we prefer to outline our position on certain key aspects of proposed ODS reform legislation.

At the outset, we must express our extreme disappointment with the Administration's ODS reform bill (H.R. 3537). While we and others have waited years for this Administration's long-promised comprehensive ODS reform legislation, the package they forwarded to the Congress is not at all satisfactory. If enacted in its present form, it would upset more than five decades of Congressionally mandated promotion of a strong, privately-owned merchant marine and actually hasten its demise. Although some elements of this bill are worthy of support, the proposed bill as a whole is an affront to labor, to the companies for which our members work, to this Congress and to our national policy of maintaining a strong maritime industry for both military and economic security.

We trust that when the time comes to write a consensus-building bill, the Administration's "efforts" will not be considered an acceptable blueprint.

With respect to the general subject of ODS reform legislation and to H.R. 3537 in particular, the following comments may be helpful to the Subcommittee:

- We support, albeit reluctantly, the inclusion of authority to build and acquire vessels from foreign sources, at least until a program is put in place which will allow American operators to procure ships in the United States at competitive world prices. We not only prefer to see all replacement and additional liner vessels built in American shipyards, but we firmly believe the end of commercial ship construction in the United States poses a severe threat to our nation's economic and military security. Nevertheless we recognize that because the Administration has steadfastly refused to request funds for the Construction-Differential Subsidy program, U.S. construction of competitive foreign trade liner vessels is virtually impossible at this time. Successful ship operations are possible only if the enormous capital cost differentials imposed on American operators as compared to their foreign counterparts are eliminated. We also support the proposal to grant immediate eligibility to carry cargo preference cargoes on foreign procured ships.

- We do not support the notion that any foreign procured ship is acceptable for fleet expansion. Foreign acquisition of additional liner ships should be limited to new vessels. A renewed American fleet cannot be built from the world's scrap heap. Upon enactment of an ODS reform bill, we would accept the inclusion of foreign built, U.S.-flag vessels already owned by established liner operating companies into the ODS program.

- Reforms which extend into the bulk trades should not be part of this effort. If such reforms are necessary, they should be considered separately and apart from this on-going ODS reform legislative process.

- We generally endorse those proposals designed to lessen the administrative and regulatory burden on the operators. Foreign liner operators have been able to compete without the artificial restraints imposed by strictly-regulated trade routes and the vast array of restrictions and permissions that have accompanied this system. ODS-reform must give American operators this same advantage. But, with equal vigor, we must insist on full and adequate safeguards for small operators who might be negatively affected by such "deregulation." The smaller liner companies do not have the vast fleets and infrastructure of the larger companies and thus could be irreparably harmed if the larger companies are able to operate with no controls whatsoever. We must avoid the mistakes and abuses experienced in other transportation modes as a result of immediate deregulation.

- The proposals that subsidy calculations be based on "safe" navigation" manning levels and "most economical collective bargaining agreements" are an unwarranted intrusion into established collective bargaining practices and are totally unacceptable to organized labor. Furthermore, they represent a retreat from the principle of full parity with foreign operators created by the Merchant Marine Act of 1936 which will only guarantee our operators a permanent non-competitiveness. These proposals ignore our negotiation of competitive wage and fringe benefit packages, and our agreement to the lowest possible manning scales on new vessels. It is as well contrary to the tradition of American labor law to put the federal government at the bargaining table with management and labor.

- There have been several proposals to re-write section 804 of the 1936 Act to permit ownership and operation of foreign-flag feeders by subsidized operators. This objectionable concept was extended during testimony on March 17th by the large liner companies to include also the ownership and operation of foreign-flag linehaul vessels. Neither provision is acceptable to our labor organizations. A strong merchant marine cannot be created by promoting the interests of foreign-flag fleets,

  especially when U.S. taxpayers' dollars are involved. The revamping of the subsidy system must not serve as the vehicle to develop foreign-flag holdings at the expense of expanding the American fleet. This Subcommittee is well aware that the military and economic security of the United States demand both a sufficient number of American-flag vessels and a sufficient number of well-trained American seafaring personnel to meet defense and commercial requirements. We strongly urge that liner companies operating under a new ODS program be prohibited from owning and/or operating foreign linehaul and feeder vessels. Similarly, the proposal for mixed U.S. and foreign manning on U.S.-flag feeders is equally objectionable and should also be shelved, especially in light of P.L. 100-239.

- The Administration proposes several changes in the enforcement of our cargo preference laws. Our reading of them is that they are headed in the wrong direction. We oppose absolutely the effort to end the so-called "double subsidy"; indeed, it is a twisted logic that leads to this terminology. Additionally, we read the other preference cargo elements of this bill as weakening enforcement. This Subcommittee needs no preaching from us or any other party on this subject! We would ask only that as much effort be devoted to getting full shipper agency compliance with existing law.

We would ask that the Subcommittee consider our comments on these specific elements of the Administration's bill in a more broad context; most, if not all, of these elements appear in the bills pending before the Subcommittee.

Moving beyond these specific points we must reiterate our view that changing the ODS program for the sake of change is unwise. True reform should result in a better, stronger program than that currently in place. Thus any legislated changes must include appropriate safeguards to maintain the program over the long run. Long term contractual obligations and commitment to fully-funded budgets are vital. Likewise, all participants in the program must be treated equally with regard to their rights, privileges and responsibilities under the program.

We have not attempted to cover every element of every bill in these comments. Such an effort would be fruitless. We are willing to help refine an ODS-reform package when the liner operators reach a consensus as to its general elements and provisions. We believe that our views expressed in this statement and our statement two years ago generally shape our approach to ODS reform. The livelihoods of our collective memberships depend in large part on the success of this effort. We would ask that the Subcommittee keep all parties focused on section 101 of the 1936 Merchant Marine Act; the policy directives of that legislation are as valid today as they were 50 years ago. The findings of the Commission on Merchant Marine and Defense corroborate this conclusion. The Commission's excellent work provides both the impetus and framework for commitment to a vigorous maritime industry, and for a comprehensive ODS reform bill.

(27 May 1988)

COMMENTS OF THE BERGER GROUP CONCERNING ODS REFORM PROPOSALS

These comments are on behalf of the Berger group of shipping companies (herein the "Berger Group"), controlled by Captain Leo V. Berger. The Berger Group constitutes one of the largest privately-held independent United States-flag tanker and dry bulk vessel owner/operators. Apex Marine Corp., the Berger Group's operating company, operates 16 United States-flag tankers and bulk carriers serving both the international and domestic markets. Three of those vessels operate pursuant to Operating-Differential Subsidy (ODS) agreements. Several operate primarily in the foreign preference trades.

In the early 1970s, Captain Berger was the first United States shipowner to avail himself of the opportunity to build subsidized bulk vessels for international trade under the 1970 Amendments to the Merchant Marine Act, 1936, as amended. In the early 1980s, Captain Berger responded to the Reagan Administration's section 615 initiative. Section 615 allowed United States subsidized owners to build U.S.-flag vessels in foreign shipyards and document them for immediate eligibility under the cargo preference laws of the United States. The Berger Group constructed five dry bulk carriers pursuant to section 615, the latter three of which were constructed in joint ventures with Crowley Maritime Corporation. Those vessels, which have been operated primarily in the foreign cargo preference trades, are among the most modern efficient vessels currently flying the United States flag and have contributed substantially to the dramatic reduction in freight rates that has occurred in the foreign preference trades. Because of its history in the bulk vessel trade, the Berger Group is well qualified to comment on the effect of the legislative proposals concerning reform of the ODS program.

The Berger Group generally supports reform of ODS. However, it opposes those features of the five legislative proposals -- H.R. 1088, H.R. 2462, H.R. 3297, H.R. 3537 and H.R. 3808 -- which it believes unnecessarily and unfairly revise the ODS program with respect to bulk cargo carriers. Specifically, the Berger Group is strongly opposed to: (1) the elimination of the three-year waiting requirement before existing foreign-built vessels may participate in the foreign cargo preference program contained in H.R. 3537, the Administration's proposal, and H.R. 2462; (2) elimination of the geographic distribution requirement for cargo preference as set forth in the Administration's proposal; and (3) changes in section 805(a) of the Merchant Marine Act, 1936 contained in H.R. 3297 and H.R. 3808 insofar as they affect subsidized bulk operators particularly conditioning of section 805(a) approval upon consideration of the impact on exclusively domestic operators and requiring applicants to disclose the nature and scope of their intended operations.

Changes in the ODS program should be limited to liner vessels.

The impetus for reform of ODS comes primarily from the larger liner companies. As we understand, those companies take the position that the ODS program as currently administered is a hindrance as much as a help with regard to their competition. The Berger Group recognizes that some aspects of the ODS program concerning liner vessels should be modified. But those deficiencies -- and their concomitant remedies -- do not translate to the bulk sector of U.S.-flag vessels. Whether the bulk ODS program -- which is generally in a caretaker status at this point -- should be reformed, or whether it should be eliminated altogether, involves separate questions which neither the industry nor the Administration has yet studied. However, it has been common ground that liner reform remain just that -- reform of the program limited to liner vessels. In the Berger Group's view, all bulk operators support liner reform on those terms. To the extent the legislative proposals affect bulk operators, which is the case with several of the present proposals, it is generally opposed by bulk operators.

> **Elimination of the three-year waiting requirement for foreign-built vessels will injure domestic operators who were induced by section 615 of the Merchant Marine Act, 1936, to acquire new foreign-built vessels.**

H.R. 2462 and H.R. 3537, the Administration's proposal, would amend the Cargo Preference Act of 1954 so as to eliminate the three-year waiting requirement for foreign-built bulk cargo vessels.[1] Consequently, existing foreign-built vessels would have immediate access to the preference trade presently reserved, in effect, for U.S.-built vessels and vessels newly-built pursuant to section 615. The proposals to eliminate the three-year waiting requirement are not only a reversal of almost 35 years of policy favoring U.S.-built vessels and U.S. shipyards, they are also completely contrary to the position taken by Congress, and relied upon by the Berger Group and others, in enacting section 615 in 1981.

Until 1981, the Cargo Preference Act of 1954, 46 U.S.C. App. § 1241(b), codified as section 901(b) of the Merchant Marine Act, 1936, restricted the foreign preference trade to U.S.-flag vessels built in the United States. Foreign-built U.S.-flag vessels were not permitted to carry preference cargoes until they had been documented under the laws of the United States for at least three years. By so restricting foreign-built vessels in favor of U.S.-built vessels, the Cargo Preference Act guaranteed a market for U.S.-built vessels and thereby promoted the domestic shipbuilding industry while protecting operators who built for that market against the capital cost advantages of foreign-built tonnage.

Construction-differential subsidy (CDS) was made available to equalize the capital cost with foreign-built vessels and ODS was made available to equalize the operating cost. The general notion of both programs was that the U.S.-flag vessels thus subsidized could compete, eventually at least, for preference cargoes at world rates. Unfortunately, neither ODS nor CDS accomplished the intended equalization, and the industry remained divided over whether preference cargoes should be carried by subsidized tonnage. In 1981, the Administration abandoned the CDS program altogether and ceased granting new ODS contracts. In return, it sought and obtained section 615.

Section 615 provided that certain U.S.-flag vessels authorized to be constructed by subsidized operators in foreign shipyards would be eligible to carry foreign preference cargoes reserved to vessels built in the United States. That section was enacted as an amendment to the Omnibus Budget Reconciliation Act for F.Y. 1982 and, being effective for only one year, expired without having been renewed or extended on September 30, 1982.[2] Section 615 was intended as a temporary substitute for the CDS program which lacked funding. It was specifically designed to encourage domestic operators to construct new vessels abroad during a limited period of time and to operate them in the preference trades.

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[1] H.R. 1088 eliminates the three-year waiting requirement for liner vessels only. pp. 17-18.

In reliance on this temporary exception to the three-year waiting requirement, the Berger Group and other domestic operators constructed new vessels at foreign shipyards specifically for operation in the cargo preference trade.[3] The primary, if not only, market for such section 615 bulk vessels was then and continues to be the foreign preference trade. If the preference trade is suddenly thrown open to foreign-built vessels, which are easily obtainable on the world market, there will be a disastrous effect on the ability of section 615 vessels to compete. Consequently, not only will the reasonable expectations of those domestic operators induced to construct new foreign-built vessels be frustrated, but the substantial investments of those owners in section 615 vessels will be lost.

In enacting section 615, Congress and the Administration promised, in effect, to retain the three-year waiting requirement at least until the vessels procured under section 615 have been fully depreciated. All of the vessels which were constructed as a result of section 615 are only between 2-4 years old. Neither Congress nor the Administration should break that promise. If new bulk vessels are needed for the U.S.-flag foreign trading fleet, Congress and the Administration should renew the section 615 initiative to allow all operators to construct new U.S.-flag vessels in foreign shipyards.

Permitting foreign-built vessels up to ten years of age or without any age limitation to be documented under the laws of the United States to carry preference cargoes will result in an aged U.S.-flag fleet.

The Administration's proposal automatically permits foreign-built vessels up to five years of age to carry cargoes currently reserved for U.S.-built vessels. H.R. 3537, p. 29. Vessels more than five years of age but less than ten years of age on the date of registry will also be able to compete for foreign preference cargoes pursuant to the Administration's proposal if they are "suitable for national defense or security purposes" Id. Since there are many vessels up to ten years of age which may be suitable for national defense or security purposes, the Administration's proposal will permit virtually all foreign-built vessels less than ten years of age to compete for preference cargoes once documented under the laws of the United States.

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[2] By its terms section 615 would have extended until September 30, 1983 if the President had requested $100 million in funds for CDS or otherwise proposed an alternate shipbuilding program, neither of which occurred.

[3] The Berger Group had five such vessels constructed abroad pursuant to section 615 in which it invested approximately $110 million without any U.S. government funds, guarantees or exposure of any kind whatsoever. In fact, all of the section 615 vessels were financed primarily by U.S. operators.

H.R. 2462 does not even pretend to seek relatively new foreign-built vessels to carry foreign preference cargoes. p. 15. It permits any foreign-built vessels regardless of age to be eligible to carry foreign preference cargoes so long as they have been documented under the laws of the United States.

Permitting old foreign-built vessels to be re-flagged and to enter immediately the foreign preference trade is not only entirely contrary to the position taken by the Administration on section 615, it also will have an adverse effect on the quality of the U.S. merchant marine. Although the Administration's proposal and H.R. 2462 appear intended to foster the development of a modern new U.S.-flag fleet by eliminating restrictions on where vessels are built, they will actually have the opposite effect. The Administration's proposal will encourage domestic operators to obtain the available foreign-built, foreign-flag vessels, which will tend to be as close in age as possible to the ten year mark, document them under the laws of the United States and compete for preference cargoes. The effect is worse under H.R. 2462 which permits vessels of any age to compete for preference cargoes.

The reason the relaxation of the three-year rule will have such an effect is because of the way bulk vessels price freight. Since rates are not agreed upon in conferences and bulk cargoes are bid on full shipload lots, pure price competition results. U.S.-flag vessel operating costs have been very price competitive particularly in recent years. Union wage packages and work rules are roughly equal nationwide leaving little difference in labor costs among operators. Capital and fuel costs remain the chief area of competition. Since virtually all foreign-built vessels are diesel -- all § 615 bulk vessels and any vessels permitted to be reflagged -- lowest capital costs (offset by maintenance and repair costs) will determine which vessels obtain charters in open competition.

Accordingly, under either proposal, there will be no incentive to construct new vessels outside the United States. Given the current glut of vessels on the world market, and particularly of vessels up to ten years of age, they will be easy to obtain. In the end under the Administration's proposal, the cargo preference fleet will be composed of foreign-built and formerly foreign-flag vessels at least ten years of age, hardly a desirable result. And under H.R. 2462, without the age limitations, the fleet will be composed of fully-depreciated, older vessels because they will be the cheapest to obtain.

A much better approach would be to continue the revitalization of the U.S. merchant marine consistent with the highly successful section 615 initiative. Section 615 resulted in an infusion of new, modern vessels into the U.S. merchant marine built to U.S. standards for the U.S. flag. The result has been a substantial paring of the cost differentials between U.S.-flag and foreign-flag vessels to the benefit of the U.S. taxpayer, and a substantial reduction in the age of U.S.-flag bulk fleet available for national defense purposes. In fact, U.S.-flag rates for bulk carriers carrying P.L. 480 cargoes were lower in 1983 and 1984 than foreign-flag bulk vessel rates in 1981 and have continued to decline since, and the average age of the U.S. bulk fleet has dropped dramatically from over 20 years in

1981 to almost five years in 1986.[4] Ironically, fully half of the criticism of the cargo preference program has come from agricultural shippers who complain about the age and reliability of the cargo preference fleet just at the time when that fleet has been remarkably revitalized through section 615.

The Administration's proposal and H.R. 2462 are the antithesis of section 615. Instead of augmenting the U.S. merchant fleet further with more new, modern vessels built for the U.S.-flag, they will result in the substitution of such vessels with old foreign-built vessels built to foreign standards, which is the opposite of what the foreign preference trade needs.

The proposed elimination of the geographic distribution requirement in the Cargo Preference *Act will permit unfair allocation of cargoes*.

The Cargo Preference Act requires "fair and reasonable participation of United States-flag vessels . . . *by geographical areas*" in the carriage of 50% (now changed by the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1491, to 75% for certain agricultural commodities) of the "gross tonnage" of cargoes generally procured by the United States. 46 U.S.C. App. § 1241(b) (emphasis supplied). The requirement that participation be distributed by geographical areas ensures that the 50% requirement is not met by the carriage of cargoes to only one geographic region or on shorter rather than longer hauls. For example, without the distribution requirement, it would be possible to fill the 50% quota entirely with the shortest voyages possible, such as from the U.S. Gulf Coast to the Caribbean.

The Administration's proposal creates the specter of just such a problem of uneven distribution by eliminating the requirement that cargoes be allocated by geographic areas. H.R. 3537, p. 28-29. As a result, there will be nothing to prevent the allocation of cargoes reserved for privately-owned U.S.-flag vessels to one or more geographic areas to the exclusion of other areas.

The Berger Group recommends that the Administration's proposal be modified so as to prevent the possibility of inequitable distribution of cargoes by region. A simple modification to the effect that the percentage of cargoes reserved for privately-owned U.S.-flag vessels will be measured by *ton miles* will solve the problem. Measurement by ton miles should help ensure that at least 50% of the total tonnage *per mile* subject to cargo preference will be carried by eligible vessels. That such an approach is feasible is indicated by the fact that the Maritime Administration already accounts for the Strategic Petroleum Reserve program by ton miles and has done so since 1977.[5]

Moreover, since the Administration's proposal is driven by a wish to reduce the cost of cargo preference, it should be noted that the cost differential between U.S.-flag vessels and foreign-flag vessels has dropped substantially over the last few years due entirely to the modernization of the fleet under section 615. The cost differential on a fleetwise basis is lowest for bulk vessels on long hauls, such as to Egypt and Bangladesh.

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[4] *See Cargo Preference Laws: Hearings on S. 664 Before the Subcomm. on Merchant Marine of the Senate Comm. on Commerce, Science and Transportation*, 99th Cong., 1st Sess. 78-79 (1985).

[5] *See Annual Report of the Maritime Administration for Fiscal Year 1986* (June 1987) 24-25.

Conditioning section 805(a) approval upon consideration of the impact on exclusively domestic operators is blatantly anti-competitive.

Section 805(a), Merchant Marine Act, 1936, 46 U.S.C. § 1223, makes it unlawful to pay ODS to any operator which operates, or is affiliated with one which operates, a vessel in domestic trade without the Maritime Administration's permission. Section 805(a) is intended to protect unsubsidized operators in the coastwise or intercoastal trades from *unfair* competition from subsidized operators. Section 805(a) is not intended "as a vehicle for placing unnecessary restrictions on a proposed operation in order to protect unsubsidized domestic operators from *fair* competition by additional unsubsidized parties." [6]

The Maritime Administration may deny permission under section 805(a) only upon finding that granting it "will result in unfair competition to any person" operating exclusively in the domestic trade or "would be prejudicial to the objects and policy of . . . [the] Act." H.R. 3297 (p. 23) and H.R. 3808 (p. 3) seek to impose an additional requirement to require the Maritime Administration to consider the impact of the proposed service on operations of existing exclusively domestic services. Presumably, if an existing domestic service will be harmed by the proposed service, the Maritime Administration will not be able to grant the section 805(a) application. However, the Maritime Administration must already consider the impact upon domestic operators of *unfair* competition and adverse effects on the shipping public. Consequently, the only reasonable interpretation of H.R. 3297 and H.R. 3808 is that they seek to shield domestic operators from fair competition.

The proponents of the additional requirement seem to deny that section 805(a) protects unsubsidized domestic operators from unfair competition. [7] Proponents' denial is based on several erroneous claims. First, proponents claim that the unfair competition standard has been limited to subsidy diversion. That claim is wrong. Unfair competition is also competing "'fraudulently, in a cutthroat manner, or in a way that is unfair according to accepted generally applicable legal or ethical standards.'" [8] Second, proponents seem to claim that the objects and policy standard has been too narrowly construed. It has been interpreted to mean the prevention of a long-term adverse affect on service in the domestic trades. [9] Such an interpretation is fully justified. Unsubsidized operators are protected by the unfair competition standard. The objects and policy standard can only be intended to protect the shipping public, not particular vessel operators.[10] Third, proponents claim that the burden of proof should be on section 805(a) applicants. Currently, applicants have the initial burden of proof; then upon a showing that no subsidy diversion will occur, the burden of proof shifts to opponents of the proposed service. The current interpretation is correct because it places the burden of proof at each stage of the proceedings on the party which has available to it the information required to meet the burden. Operators already in a trade "are more likely to be more able to show that the overall service to the trade will be harmed than the applicant."[11]

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[6] *American Export Isbrandtsen Lines, Inc.*, 9 SRR 997 (MSB/MA 1968). Unsubsidized operators receive no protection, after all, from other unsubsidized operators.

[7] *See*, *e.g.*, Statement of Philip M. Grill, Matson Navigation Company, Inc. before the House Subcommittee on Merchant Marine (April 13, 1988) ("Matson Statement").

[8] *Aeron Marine Shipping Co.*, 22 SRR 555, 567 (MA/MSB Docket S-724, 1983), *quoting* *Matson Navigation Company v. Connor*, 258 F. Supp. 144, 156 (N.D. Cal. 1966).

[9] *Aeron*, 22 SRR 1547, 1552.

In effect, the two proposals seek to revive the long discarded theory that domestic operators have a "fundamental entitlement" to domestic cargoes. Section 805(a) was never intended to grant domestic operators such an entitlement.[12] It was merely intended to shield unsubsidized operators from subsidized competition. Section 805(a) as interpreted already provides more than adequate protection to existing unsubsidized domestic operators from unfair competition. The proposed amendment to section 805(a) in H.R. 3297 and H.R. 3808 will shield unsubsidized operators from all competition.

Requiring applicants under section 805(a) to disclose the nature and scope of intended operations is also anti-competitive.

As section 805(a) has been interpreted, applications for permission under that section need not disclose in which specific domestic trade the applicant's vessel will operate.[13] Thus, once permission is granted under section 805(a), new permission does not have to be obtained if a change in service is made so long as the new service was encompassed by the original approval. H.R. 3808 (p. 3) and H.R. 3297 (p. 22) would amend section 805(a) so as to require applicants under that section to disclose the nature and scope of operations proposed to be conducted in domestic or coastwise service.[14] Presumably, applicants under section 805(a) would be restricted to the service disclosed.

If such proves to be the case, these two proposals are highly anti-competitive. Currently, it often takes two years or more and can cost several hundred thousands of dollars in legal and other fees to obtain permission under section 805(a).[15] Even H.R. 3808, which purports to streamline the

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[10] *See* *Aeron*, 22 SRR 1547, 1555 (1984).

[11] *Aeron*, 22 SRR 1546, 1555.

[12] *See* *Aeron*, 22 SRR 1546, 1552 (and cases cited therein).

[13] *See* *Aeron*, 22 SRR 265, 283 (1983).

[14] H.R. 3297 contains a slightly different phrase but to the same effect as H.R. 3808.

[15] For example, an application pursuant to section 805(a) was filed in the *Aeron Marine Shipping Co.* case (Docket S-724) on October 22, 1982. Permission was not

(continued...)

approval process, permits the Secretary of Transportation 15 months within which to make a decision, and that does not include judicial appeals. The administrative burden to obtain approval under section 805(a) is so heavy that restricting an operator to the service disclosed will make applications under section 805(a) prohibitive. Even applications normally granted will be deterred because the entire process will have to be repeated should it become necessary to change the specific disclosed area of operations to meet changed business conditions. In effect, it will be possible for domestic operators operating exclusively in the domestic trade to shield themselves from new competition, no matter how insulated that competition is from subsidies, by delaying section 805(a) applications. Consequently, the administrative burden combined with the restrictions on where the vessel can operate will act as a barrier to the entry of subsidized operators into the domestic trade.

Amendment of section 805(a) is not only highly anti-competitive, it is entirely unnecessary. Proponents of the disclosure requirement claim that it is needed because not requiring prior disclosure

> makes it impossible for a protesting domestic carrier to sustain its burden of proof to establish that this future unspecified activity will cause unfair competition or prejudice to the objects and policies of the Act. [16]

This rationale fails to take into account how section 805(a) has been interpreted. When the proposed service is not disclosed, opponents of a section 805(a) application "may base their opposition on the assumption that the proposed competition will be directed against them to the fullest extent possible." [17] Consequently, the burden is, if anything, easier without specific prior disclosure because opponents can assume without having to prove that the full competitive impact will be directed against them. We fail to see how any protestant could be prejudiced by the current interpretation.

H.R. 3808 and H.R. 3297 are particularly unfair because they do not distinguish truly harmful practices, such as "mixed services", from benign ones, such as pure "affiliations".

By way of background, applications under section 805(a) have generally fallen into one of two categories: "mixed services" or "affiliations". Mixed services cases are those in which a subsidized vessel on a subsidized voyage in the foreign trade also carries cargo from one domestic port to another as part of the foreign voyage. A classic example of a mixed service is a service between the U.S. West Coast to the Far East with service to Hawaii. A subsidized vessel

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[15](...continued) finally granted in that case until February 8, 1985, more than three years later.

[16] Matson Statement at 7.

[17] Aeron Marine Shipping Co., 22 SRR 265, 283 (MA/MSB Docket S-724, 1983), citing Moore-McCormick Lines, Inc., 9 SRR 530 (2 MSB 288, 291, 1967).

cannot serve Hawaii on such a voyage without first obtaining permission under section 805(a).

Because of the nature of the mixed services, it has come to be accepted that the subsidized operator will enjoy some subsidy benefit on such services. For this reason, domestic operations must ironically bear a heavier burden of proof in mixed service cases. Such operators must prove that the domestic service portion of the mixed service will receive a "substantial subsidy benefit" to prevent approval under section 805(a).

Affiliation cases are completely different. An affiliation case is one in which an affiliate or a subsidized operator operates an unsubsidized vessel in a separate unsubsidized domestic service. Generally, the constraints of section 805(a) have led to separate incorporation of the unsubsidized operator with separate accounting and other controls, keeping the subsidized and unsubsidized operations completely separate, so that no subsidy benefits can flow to the domestic operation. Thus in contrast to mixed services, the domestic operation is not benefited at all by the subsidy in affiliation cases short of outright fraud, which is difficult to conceal. Affiliations pose so little danger to domestic operators, that the Berger Group favors excluding them from section 805(a) altogether and granting blanket approval to affiliation applications in which the affiliates are genuinely separate and distinct entities.

H.R. 3297 and H.R. 3808 not only would fail to reform section 805(a) with respect to affiliates, they would add additional burdens to affiliate applications such as prior disclosure of the intended service. Because such burdens are unwarranted and will have substantial anti-competitive effects, they should be disapproved.

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